

# New York School Law

THOMAS E. FINEGAN

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A TEXT BOOK  
ON  
NEW YORK SCHOOL LAW

INCLUDING

THE CONSOLIDATED SCHOOL ACT, THE UNIVERSITY  
LAW, THE DECISIONS OF COURTS, AND THE  
RULINGS AND DECISIONS OF STATE  
SUPERINTENDENTS

Prepared for the use of Normal Schools, Training Classes,  
Teachers and School Officers

BY

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ALBANY, N. Y.

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## PREFACE

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In preparing this work the author has endeavored to arrange in systematic form the provisions of law relating to the public school system of the state. He has also endeavored to give as much on the historical development of the school system as might be pertinent in a work of this nature. His aim has been to express the provisions of law in the simplest manner possible, and to avoid all legal phraseology. He has written this after an experience of fifteen years in various fields of public school work and with an earnest desire to make it of the greatest possible service to the teachers and school officers of the state.

At the beginning of each chapter reference is given to the section or title of the consolidated school law on which the chapter is based. This reference governs the entire chapter unless other references are given at the end of a paragraph. The decisions of state superintendents are referred to by number. These decisions are given

in full in the annual reports of the state superintendent.

At the end of each chapter questions covering the text of the chapter will be found. These questions may help students in review work and in forming a more definite and accurate knowledge of the subject.

THOMAS E. FINEGAN,  
Albany, N. Y.



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# NEW YORK SCHOOL LAW.

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## CHAPTER I

[SEE TITLE I; ALSO CHAPTER 40, LAWS 1904.]

### STATE COMMISSIONER OF EDUCATION

**Historical Sketch.**—The first State supervisory school officer in this State was known as “Superintendent of Common Schools.” The office was created by the act of June 19, 1812, entitled “An Act for the Establishment of Common Schools.” This act provided for his selection by the “Council of Appointment.”

This office was abolished April 3, 1821, and its duties were transferred by the same act to the Secretary of State, who served as superintendent of common schools *ex officio* until April 8, 1854, when the first State Superintendent of Public Instruction assumed the duties of his office. The act establishing this office was passed March 30, 1854, and is chapter 97 of the Laws of that year. The office was continued until April 1, 1904, when the Unification Act of that year went into effect. Under the provisions of that act the office of Commissioner of Education was created, and the first Commissioner assumed the duties of his office April 1, 1904. It will thus be observed that the administration of public-school work has been in the hands of four State officials, as follows: From January 14, 1813 to April 3, 1821, the “superintendent of com-

mon schools;" from April 3, 1821, to April 8, 1854, the Secretary of State, who was *ex-officio* "superintendent of common schools;" from April 8, 1854 to April 1, 1904, the State Superintendent of Public Instruction; and since April 1, 1904, the Commissioner of Education.

**Mode of Election.** — Under the act of 1904, the first Commissioner of Education was elected by joint ballot of the senate and assembly. Any vacancy occurring in the office within the first six years must be filled by the Legislature in the same manner in which the first commissioner was chosen. After the expiration of six years all vacancies in the office of Commissioner of Education must be filled by appointment by the board of regents.

**Term of Office.** — The term of office of the first Commissioner of Education is six years. If a vacancy occurs in the office within that period, the person chosen to fill such vacancy shall serve for the remainder of the term. After the expiration of the first six years, or after April 1, 1910, the term of office of the Commissioner of Education is not a fixed period, but such commissioner shall then serve during the pleasure of the Board of Regents.

**Eligibility.** — The Public Officers' Law of this State provides that all State officers shall be at least 21 years of age, a citizen of the United States, and a resident of the State. The Unification Act modifies this law by providing that such Commissioner of Education may or may not be a resident of the State.

**Removal.** — The Commissioner of Education may be removed at any time by the Board of Regents for cause.

**Salary.** — The salary of the Commissioner of Education is \$7,500 per year. He is also allowed \$1,500 per year for expenses. He, therefore, really receives \$9,000 per year, payable monthly.

**Powers and Duties.** — The Commissioner of Education may appoint as many deputies and heads of departments as he shall deem necessary, and confirms all subordinate appointments made by the heads of Departments. The Commissioner of Education also fixes the salaries of all employees, subject to the approval of the Board of Regents.

All of the powers and duties conferred by the Consolidated School Law on the State Superintendent of Public Instruction, and all of the powers and duties conferred on the Secretary of the Board of Regents by the University Law, are under the Unification Act of 1904, vested in the Commissioner of Education.

Wherever, therefore, in this book, a power or duty is stated to be vested in either of these officers, the name "Commissioner of Education" should be substituted for such officer.

The powers and duties of the Board of Regents in relation to elementary and secondary schools are also vested by the act of 1904 in the Commissioner of Education. The Commissioner of Education is also the executive officer of the Board of Regents.

The powers and duties of the State Commissioner of Education are so numerous that it is not practicable to consider them, except in a general way. For the specific duties of the commissioner in relation to any branch of work the chapter on such work should be consulted. The duties of the commissioner are executive and judicial. His more important powers and duties are as follows:

*General Supervision.*—He has general supervision over all the public schools, normal schools, teachers' institutes, and teachers' training classes in the State.

*Indian Education*—He is charged with the duty of providing for the education of the Indian children in the State, and is directed to apportion an equitable amount of public money to Indian schools.

*Deaf and Dumb and Blind Institutions.*—He also has supervision over all institutions in the State for the instruction of the deaf and dumb and blind, and is required to report annually to the State legislature in relation thereto. He also appoints State pupils qualified under the law to all these institutions excepting the Institution for the Blind in Batavia.

*Trustee, etc.*—He is *ex officio* a trustee of Cornell University, and upon the results of competitive examinations appoints annually 150 State scholars to that institution, who are entitled to free tuition. He is also a trustee of the New York State Asylum for Idiots and of the Syracuse Institution for Feeble Minded Children.

*American Museum of Natural History.*—He is also authorized to contract with the American Museum of Natural History of New York city for



free lectures for the teachers of the State in teachers' institutes, normal schools, etc.

*Appoint Persons to Visit Schools.*—He may appoint persons to visit and examine any or all common schools in the county in which such persons reside, although this is a power seldom, if ever, exercised. School Commissioners now perform this work.

*Visitation of Schools.*—He may also visit the public schools of the State and inquire into their course of instruction, their management, discipline, etc., and offer such suggestions and encouragement to pupils, teachers, and school officers as he may deem advisable.

*Annual Reports.*—He is to report annually to the State legislature “the condition of the common schools in the State and of all other schools and institutions under his supervision and subject to his visitation,” and to include in such report those recommendations upon school work, which, in his opinion, will promote the advancement of the public-school system.

*Supervision of Examination and Certification of Teachers.*—He is to prescribe the regulations under which commissioners may issue teachers' cer-

tificates; to issue life State certificates to those who have passed the examination required by law; to issue college graduates' certificates to those who meet the requirements for such certificates; to endorse under such regulations as he may adopt State certificates and normal-school diplomas issued in other States; and to issue temporary licenses for a period not to exceed six months for any school commissioner district or any school district in the State.

*Revocation of Certificates.*— For sufficient cause, he may revoke any State normal-school diploma, State certificate, college-graduates' certificate, or school commissioners' certificate, issued in this State. He may also revoke the indorsement of any normal-school diploma or State certificate issued in another State, but endorsed by a superintendent of this State.

*Prepare List of Normal Graduates.*— He is required under law to keep in his office an alphabetical list of all persons who receive normal-school diplomas from the normal schools of the State.

*Remove School Officers.*— He may, for valid reasons, remove from office any school commissioner, trustee, or other school officer. He may also withhold the salary of a school commissioner,

and may remit it at his pleasure. He may appoint a school commissioner in case of a vacancy in that office when there is no county judge in the county in which such vacancy exists to make the appointment.

*Administer Affidavits.*—He may take affidavits and administer oaths in any matter relative to school affairs.

*Prepare Registers, Blanks, etc.*—He is charged with the duty of preparing such registers, blanks, forms, regulations, etc., as may be needed in transacting all business relating to the public-school system.

*Enforcement of Compulsory Education Law.*—He is also charged with the duty of enforcing the provisions of the compulsory-attendance act.

*Arbor Day.*—He has authority to provide for the proper observance of Arbor Day and Flag Day by the public schools of the State.

*Apportionment of School Moneys.*—He must apportion as directed by law the State school moneys, and may withhold for just cause part or all of the money due any school district in the State.

*Decide Appeals.*—He must hear and decide all cases of appeal, when properly brought before him by aggrieved parties, from the action of school officers or school meetings.

*Issue Stays, Orders, etc.*—He may, upon application in due form, issue an order restraining school officers from performing any of the duties conferred upon them. He may also issue orders directing school officers to perform any of their duties which they may have refused to perform.

*School Libraries.*—He has general supervision of all the school district libraries in the State, and approves the books which are purchased with public money to be placed in such libraries. He also apportions library money to school districts as directed by law.

*Hold Property in Trust.*—He may hold in trust for the benefit of the common schools of the State, or for the schools of any portion of the State, real or personal estate which may be granted in any manner for such purpose. He also has supervision of any trust fund held by trustees for school purposes, and must require them to report regarding its condition and income at such times and in such form as he deems advisable. (Title 2, article 3.)

*Normal Schools.*—He appoints local boards of normal schools, appoints pupils to such schools and determines the requirements for admission. He determines the number of teachers to be employed in such schools, and approves their appointment and the amount of their salary.

*May Appoint Teachers and Open Schools in a City or School District.*—When the local authorities of any city or school district neglect or refuse to appoint teachers, janitors, etc., and also neglect or refuse to open the schools of a city or school district the State Commissioner of Education may appoint such teachers, janitors, etc., and open and manage such schools. October 4, 1897, State Superintendent Skinner exercised this power in the city of Watervliet and his action was sustained by the supreme court. (For a full discussion of this power see pages 118-125, vol. I, Annual Report of State Superintendent of Public Instruction for 1897.)

*Regulations*—The Commissioner of Education may prescribe any reasonable regulations for the government of the common schools which do not conflict with the laws and policy of the state. (184 N. Y. 421.)

### REVIEW QUESTIONS

What was the title of the office of the first State supervisory school officer? When was the office created? How was such officer chosen? When was the office abolished? To whom were the duties of the office then transferred? For what period did such officer act in this capacity? When did the first State Superintendent of Public Instruction assume the duties of his office? When was the office of Commissioner of Education created? How was the first commissioner chosen? How are vacancies to be filled? What is the term of office? Who are eligible to the office? How may he be removed? What is the salary? What is the two-fold character of the duties of the State Commissioner? What are his general duties? What is his duty in relation to Indian schools? Deaf and dumb and blind institutions? Cornell University? American Museum of Natural History? State University? Visitation of schools, etc.? Annual reports? Examination and licensing of teachers? Revoking certificates? Lists of normal school graduates? Removing school officers? Administering affidavits? Preparing registers, blanks, etc.? Enforcing the compulsory attendance law? Arbor day? Apportionment of school moneys? Appeals, stays, orders, etc.? School libraries? Holding property in trust? Normal school boards? When may the State Commissioner appoint a school commissioner? Under what conditions may State Commissioner appoint teachers, etc.

## CHAPTER II

### SCHOOL COMMISSIONERS — COMMISSIONER DISTRICTS

[SEE TITLE V]

**Origin.**—The office of school commissioner was created by chapter 179 of the Laws of 1856. Under the terms of this act the first persons chosen for this office were appointed by the boards of supervisors of each county.

In 1841 the office of Deputy Superintendent of Common Schools was created by the State legislature. Each county was entitled to one deputy, and counties having more than 200 schools were entitled to two deputies. These officers were appointed by boards of supervisors for their respective counties, and the term of office was two years. Their duties were to visit and inspect the schools under their jurisdiction, and to examine and license the teachers employed therein.

In 1843 the title of these officers was changed to County Superintendent of Common Schools, and increased powers were given them. The right to hear appeals was given to county superintendents in that year, and all appeals were brought before these officers for determination

before they could be taken to the State Superintendent of Common Schools. These officials were entitled to two dollars per day for each day necessarily devoted to their work, but they could not receive an amount to exceed five hundred dollars per year. In 1847 the State legislature abolished this office.

The act of 1795 creating the school system of the State provided that the electors of each town should elect at their annual town meetings, from three to seven commissioners of schools. These officers had supervision of the schools under their jurisdiction, and the distribution of State money appropriated for the support of schools. During the first year after the passage of this act, the supervisor, the town clerk, and the assessors of each town performed the duties of commissioners of schools. These commissioners received no compensation for their services.

In 1812 the number of town commissioners was fixed at three for each town by the State legislature. These officers were to be chosen as before by the people at annual town meetings, and were to receive a salary fixed by the people at the annual town meetings. To them were given the superintendence and management of schools, and they were authorized to divide

the towns into school districts. The same act provided that the people should select at the annual town meeting, a number of persons, not to exceed six, who, with the commissioners, should be inspectors, and these inspectors were required to inspect schools and to examine and license teachers. This plan continued until 1841, when the number of town inspectors was fixed at two.

In 1843 the offices of town commissioners and town inspectors were abolished by the State legislature, and a new officer known as the Town Superintendent of Common Schools was created. These superintendents were elected by the people at the annual town meetings. Their term of office was one year, and they received a salary of one dollar and twenty-five cents per day for actual time necessarily devoted to their work. To these officers were given the general supervision of schools, and the other duties which had been exercised by town commissioners and inspectors. Upon the abolishment of county superintendents in 1847, the duties of town superintendents were largely increased, and the duties of these officers from that year until 1856 were quite similar to the duties at present devolving upon school commissioners. Upon the



creation of the office of school commissioner in 1856, the office of town superintendent was abolished.

**Eligibility.**—No standard of educational qualifications has ever been required for the office of school commissioner. The only requirement for a person to be eligible to hold this office is that such person must be a citizen of the United States, at least twenty-one years of age, and a resident of the county in which the school commissioner district is located.

\* In a county having two or more school commissioner districts the school commissioners of such districts need not reside in the school commissioner districts for which they are respectively chosen, but may reside in any part of the county and all might reside in the same school commissioner district.

**Eligibility of Women.**—Chapter 9 of the Laws of 1880 renders women eligible to this office. The

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\* Section 3 of the "Public Officers Law" of 1892 provides that all public officers must be residents of the political divisions for which they are elected; but as the Consolidated School Law was enacted in 1894 and makes special provision relative to the residence of school commissioners and as such law was enacted subsequent to the "Public Officers Law," it must be held that the provisions of the Consolidated School Law in relation to the residence of a school commissioner takes precedence over the provisions of the "Public Officers Law" in relation to the residence of public officers, and that a school commissioner may, therefore, reside in any part of the county in which the school commissioner district is located.

Revised Consolidated School Law of 1894 contains this provision of the act of 1880. Women are therefore eligible to hold the office.

**Prohibitions.**—No school commissioner is eligible to hold the office of supervisor or town clerk, or trustee of a school district; nor can any commissioner be engaged in publishing school books, maps, or charts, or in the manufacture or sale of such books, maps, or charts, or of any school apparatus or school furniture; and a commissioner is debarred from acting as the agent or representative of a publisher, manufacturer, or dealer in any of the aforesaid articles. A violation of this provision is a misdemeanor. A commissioner is also subject to removal from office.

The State Superintendent has held that it is incompatible with the duties of a commissioner for such officer to engage in teaching while holding such office.

**Election.**—The consolidated school law provides that each school commissioner shall be elected by the *electors* of the school commissioner district for which such commissioner is chosen. Two important questions arise under this heading:

1. Are the electors of cities entitled to vote for school commissioners ?
2. Are women entitled to vote for school commissioners ?

(1) It is often claimed that the electors of a city which is contiguous to or surrounded by the territory of a school-commissioner district are entitled to vote for the school commissioner in such district. This is not the case. The Revised Consolidated School Law of 1894 provides that no city shall form a part of any school commissioner district, and it also provides, as above stated, that a school commissioner shall be elected by the *electors of the school commissioner district for which such commissioner is chosen*. It is, therefore, clear that the electors of cities are not entitled to participate in the election of these officers. This is in conformity to the general law of the State; but there are two exceptions to this law. Special acts have been enacted by the State legislature conferring upon the electors of the cities of Johnstown and Gloversville the right to vote for school commissioner in the county of Fulton.

(2) A school commissioner is an officer chosen at a general election in this State, and the State Constitution provides that the right of suffrage at these elections shall be restricted to *male* citizens. The Court of Appeals of this State decided that a law to give women the right to vote for this office was unconstitutional.

In 1892 the State legislature enacted a law

extending the right of suffrage to women in the election of school commissioners. This act provided that persons entitled to vote for school commissioners should be registered as provided by law, in the same manner as those who were entitled to vote for county officers.

A test case on the constitutionality of this law arose in Onondaga county. Acting under the authority of this law, Mrs. Matilda J. Gage registered in the third election district in the town of Manlius, October 23d, 1893. The board of inspectors were requested to remove her name from the registry, but refused to do so. An application was then made to a justice of the Supreme Court for an order to strike her name from the registry on the sole ground that she was not a qualified voter, by reason of her sex. The application was granted upon the ground that the law conferring upon women the right to vote for school commissioners was unconstitutional. The inspectors obeyed the order of the court, and the name of Mrs. Gage was stricken from the registry. An appeal was then taken by Mrs. Gage to the General Term of the Fourth Judicial Department, which affirmed the action of the lower court in issuing such order. An appeal was then taken by Mrs. Gage from the

action of the General Term to the Court of Appeals, and on January 16th, 1894, the Court of Appeals affirmed the action of the lower courts. The opinion of this court was written by Justice Finch and concurred in by all members of the court. The ground on which the court based its decision was that section 1, article 2 of the State Constitution provides that none but *male citizens* are entitled to vote for constitutional officers elected by the people; that the office of school commissioner is a constitutional office, and that the law in question conferring upon women the right to vote for school commissioner was a direct contravention of the State Constitution.

It will, therefore, be necessary to amend the Constitution in order to give women the right to vote for the office of School Commissioner. (See 141 N. Y. 112.)

**Term of Office.**—The term of office of school commissioners commences on the first day of January next succeeding their election, and is for three years. The last election of commissioners occurred at the general election in November, 1899, and those elected at that time assumed their duties of office on January 1, 1900.

**Oath of Office.**—All persons elected or appointed to this office are required to take the oath

of office prescribed by the State Constitution. This oath must be taken before the county clerk or any person authorized to take, within the State, the acknowledgment of a deed of real property, and it must be filed in the office of the county clerk of the county within which the school commissioner district is located, before the commencement of a commissioner's term of office, or within fifteen days thereafter. For a failure to take and file this oath the office shall be deemed vacant. (Sec. 20 Public Officers Law.)

**Vacancies.**—This office may be vacated (1) by the commissioner's filing his or her resignation with the county clerk; (2) by the commissioner's removing from the county, or upon the commissioner's death; (3) by the commissioner's accepting the office of supervisor or town clerk or trustee of a school district; (4) by the commissioner's failure to file with the county clerk the required oath of office; (5) by the commissioner's removal from office by the State Superintendent of Public Instruction.

**Filling Vacancy.**—As soon as the county clerk has official or other notice of a vacancy in this office he should notify the county judge of such vacancy, or if that office is vacant, he should notify the State Superintendent of Public In-

struction. The county judge should then appoint a commissioner to fill such vacancy; but if there should be no county judge, then the State Superintendent of Public Instruction should fill such vacancy by appointment. The person appointed to such vacancy may hold office until the first day of January next succeeding the first general election occurring after such appointment and until his successor, who shall be chosen at such election, shall have qualified. The person thus elected may serve for the unexpired portion of the term for which the person was chosen who vacated the office.

If a person elected to the office of school commissioner dies between the date of the election on which he was elected and the first day of January following, the date provided by law on which school commissioners shall enter upon the discharge of the duties of their office, and such person failed to take the required oath of office before his or her death, the vacancy caused thereby may, after the time prescribed by law on which an oath of office must be filed, be filled by appointment by the county judge of the county in which the school commissioner district for which such person was elected is located.

In a case of this kind under the provisions of

section 4 of article 1 of "The Election Law of 1896," the governor may appoint a special election in a commissioner district for the election of a school commissioner. The governor need not, however, exercise this power. If he does not, the expense and trouble of a special election are avoided, and a vacancy is permitted to occur "by failure to file the required oath of office." In such a case the county judge may fill the vacancy by appointment.

Under the provisions of the "Election Law" above referred to, when a person elected to the office of school commissioner dies or becomes disqualified between the date of the election on which he was chosen and the first day of January following, and such person *had taken* the required oath of office previous to his or her death, the only way by which such vacancy can be filled is by special election. This special election must be appointed by the governor as required by law. (See section 4, article 1, The Election Law of 1896.)

**Salary.**—Each commissioner receives from the State an annual salary of \$1,000. Boards of supervisors are directed by law to audit and allow each commissioner within the county annually not less than \$200 for expenses. This makes



the salary of every commissioner in the State at least \$1,200 per year.

The supervisors of the towns forming a commissioner district have the power to increase the salary of any commissioner within their respective counties. Where the salary is thus increased, such increase must be levied and assessed upon the towns comprising the school commissioner district for which the increased salary is voted. This action has been taken in several counties and the salary fixed at \$1,400, \$1,500 and \$1,800. The writer knows of no larger amount's being paid. In a large majority of the districts the amount fixed by statute, \$1,200, is the salary. The salary paid since the creation of this office has been as follows: From 1856 to 1867, \$500; from 1867 to 1885, \$800; from 1885 to the present time (1902) \$1,000. Boards of supervisors were directed in 1875 to appropriate \$200 for expenses, and this amount has, since that date, been added to the amount stated above.

**Forfeiture of Salary.**— The State Superintendent of Public Instruction may withhold his order for the payment of the whole or any part of the salary of a commissioner when he is satisfied that such commissioner is guilty of persistent neglect of duty to the extent of demanding such

punishment. The superintendent may, at his discretion, afterward remit to such commissioner the whole or part of such forfeiture.

**Removal from Office.**—The State Superintendent of Public Instruction may remove from office any school commissioner who is guilty of wilful violation of law or neglect of duty or who wilfully disobeys any order, decision, or regulation made by him. (See Prohibitions, page 14.)

**Performing Duties of Another Commissioner.**—A commissioner, when requested in writing by a commissioner of an adjoining district, *may* perform any of the official duties of the commissioner of such adjoining district. Upon an order from the State Superintendent of Public Instruction, he *must* perform such duties.

**Powers and Duties.**—A school commissioner is the supervisory school officer for his or her school commissioner district. (For the specific duties of a school commissioner in relation to any branch of school work, consult the chapter on such subject.) The more important powers and duties of this officer are as follows:

*Supervision.*—One of the most important duties of a commissioner is that of supervision. He is required by law to visit and examine all the schools and school districts in his jurisdiction.

It is his duty to advise teachers in relation to their methods of teaching and the management and discipline of their schools. He is charged with recommending to teachers and trustees courses of study and such changes in the general management of schools as will best promote educational interests. He should see that the grounds and outbuildings are in proper condition, and that the school is equipped as required by law to perform the best work possible.

*Establish District Boundaries.*—When the records of school districts are defective and not properly filed in the offices of town clerks, or when the boundaries of school districts are indefinite or in dispute, it is the duty of the school commissioner having jurisdiction, to establish such boundaries and to see that proper records thereof are filed in the town clerk's office. In order to do this, a commissioner may employ surveyors to establish lines, prepare maps, etc., and any expense necessary for this purpose is a charge upon the district or districts affected.

*May Order Repairs.*—When, in the opinion of a commissioner, it is necessary for the health or comfort of pupils to make repairs or alterations on a school-house or outbuildings, he may direct the trustees of the district to make such repairs

or alterations at an expense not to exceed \$200. The district, however, may vote an additional amount.

*May Order Furniture Supplied.*—When, in the opinion of a commissioner, the furniture in a school-room is unfit for use and not worth repairing, or when the supply is insufficient, he may direct the trustees of such district to provide new furniture at an expense not to exceed \$100.

*Order Nuisance Abated.*—A commissioner may also direct the trustees of any school district to abate any nuisance in or upon the premises of their district when the expense of the same shall not exceed \$25.

*May Condemn School Building.*—A commissioner has the authority, when in his opinion a school-house is unfit for use and not worth repairing, to issue an order to the trustees condemning such school building, and to direct in such order the amount necessary, in his judgment, to erect a building suitable for the needs of the district. Previous to 1897 a commissioner could not exceed \$800 in his estimate of the amount necessary for the erection of a building. The legislature of that year amended the law by removing this limit and leaving the amount to the discretion of the commissioner.

*Examine and License Teachers.*—It is the duty of commissioners to conduct examinations for teachers' certificates, under such rules and regulations as shall be prescribed by the State Superintendent of Public Instruction, and to license those who are found to be qualified under such regulations.

*Revocation of Certificates.*—A school commissioner may annul a commissioner's certificate, normal school diploma, State certificate, or college-graduate's certificate, for immoral conduct on the part of the holder of such certificate. Since the passage of the Revised Consolidated School Law of 1894 a commissioner has not had authority to revoke a certificate upon any other ground than that of immoral conduct.

*Administer Oaths, Etc.*—A school commissioner may administer oaths or take affidavits in all matters relating to school work, but without charge or fee.

*Take Testimony in Appeals.*—When directed by the State Superintendent of Public Instruction, a commissioner must take and report to him testimony in any appeal case. A commissioner has the authority to issue subpoenas and compel the attendance of witnesses. A failure to obey such subpoena subjects the offender to a fine of \$25.

*Reports.*— A commissioner is required by law to obtain reports from the trustees of all school districts within his jurisdiction and to file an abstract of such reports annually with the State Superintendent. He is also required to submit reports from time to time to the State Superintendent, giving such information relative to the schools in his district and such suggestions upon the educational work of the State as the superintendent shall request.

*Subject to Regulations of State Superintendent.*— A commissioner is subject to such rules and regulations as the State Superintendent of Public Instruction shall from time to time adopt. Appeals from a commissioner's acts and decisions may be taken to the State Superintendent.

*Call School Meetings.*— A commissioner may, in certain cases, call annual and special school meetings, and must call the first school meeting in a new school district. (See chapter on "school meetings.")

*Rooms for Examinations.*— School commissioners can require the trustees or boards of education of any school district to furnish them with a suitable room or rooms in school buildings for the purpose of holding any examination appointed under the direction of the State Superintendent of Public Instruction.

*Divide Territory into School Districts.*—It is the duty of school commissioners to make such division of the territory of their respective districts as they think will serve the best interests of the school system. They have the authority, also, to alter or dissolve school districts as provided by law.

*May Appoint Trustee.*—A school commissioner may fill a vacancy in the office of trustee by appointment, when such vacancy has existed for one month or more and the school district has failed to fill such vacancy by election at a district meeting.

*Arrange for Teachers' Institute.*—A school commissioner shall, under the regulations of the State Department of Public Instruction, arrange once each year for a teachers' institute in his commissioner district.

*Recommend Appointment of Normal School Pupils.*—He has the power to recommend to the State Superintendent for appointment as pupils in the State normal schools such persons as are qualified and as, in his judgment, would become successful teachers by receiving a normal school training.

*Apportion School Money.*—He is required to apportion the State school moneys to the various

school districts under his supervision as directed by law.

#### SCHOOL COMMISSIONER DISTRICTS

[SEE SECTION 2 OF TITLE V]

**Organization.** — School-commissioner districts were first created by chapter 179 of the Laws of 1856. Under this act these districts generally corresponded with assembly districts, and the power to divide counties, in certain cases, was conferred upon the boards of supervisors of such counties. The power to alter, abolish, or create school commissioner districts since the passage of the act which established them has, part of the time, rested solely with the State legislature, and part of the time this authority has come within the power of boards of supervisors. From 1856 until 1863 boards of supervisors, in certain cases, possessed this power. In 1863 this power was taken from boards of supervisors, and from that date until 1881 it was vested solely in the State legislature. In 1881 the legislature restored this power to boards of supervisors under certain conditions, and they have possessed it from that date to the present time.



As the State Constitution does not provide for school commissioner districts, these districts are entirely under the control of the State legislature, which may alter or abolish them or which may provide in what manner they shall be altered or abolished.

The Revised Consolidated School Law of 1894 provides that any school commissioner district containing more than 100 school districts may be divided by the board of supervisors of the county within which such school-commissioner district is located and that an additional school-commissioner district may thus be created.

**Prohibitions.**—Under the “revised consolidated school law of 1894,” no city can be included in or form a part of any school-commissioner district.

**Number of Districts.**—At present there are one hundred and thirteen school-commissioner districts in the State.

### REVIEW QUESTIONS

When was the office of school commissioner created? How were the first persons who served in this office chosen? When was the office of deputy superintendent

of common schools created? How many deputies did each county have? How were they appointed? What were their duties? What change was made in the title of this office in 1843? What provision was made by the act of 1843 in relation to appeals? What compensation was paid these officers? When was this office abolished.

What provision did the act of 1795 contain relative to the election of commissioners? What were the duties of these officers? Who performed the duties of these officers during the first year after the passage of this act? What compensation did commissioners receive? What change did the act of 1812 make in relation to the number of these commissioners? What compensation was provided? How fixed? What new office did this act of 1812 create? What was the duty of these inspectors? What change was made in the number of inspectors in 1841?

When was the offices of commissioners and inspectors abolished? What new offices were created in this year? How were these officials chosen? For what period? What salary was paid them? What were their duties? Describe their duties between 1847 and 1856? When were these offices abolished? Why? Who are eligible to the office of school commissioner? Must a commissioner be a resident of the district for which he is elected? Are women eligible to this office? How long has this been the law? What offices are school commissioners prohibited from holding? What would be the effect if a commissioner should accept any such office? In what business are commissioners prohibited from being interested or engaged? May a commissioner act as teacher? Are electors of cities qualified to vote for commissioners? Why? What exceptions are there to the law? Have women a legal right to vote for school commissioners? Why not? Give history of law of 1892 and a test case which arose under such law?

When does the term of office of a commissioner begin? What is the length of the term of office? What oath must a commissioner take? Before whom? Where must it be filed? What is the penalty for a failure to take such oath? Name five ways by which the office may be vacated. Upon receiving notice of a vacancy, or hearing of one, what should a county clerk do? Who fills such vacancy by appointment? For how long is the appointment to such vacancy valid? For how long does the person elected at the next election, after a vacancy occurs, serve? What is the salary of a school commissioner? How much is paid by the State? In what manner is the remainder paid? How may the salary be in-

creased? When the salary of a commissioner is increased, upon the property of what territory is such increase assessed? What was the salary from 1856 to 1867? From 1867 to 1885? Since 1885? When were boards of supervisors directed to appropriate \$200 to each commissioner for expenses? How may the salary of a commissioner or any part of it be withheld? When should such salary afterward be paid?

Who may remove a commissioner from office? Upon what ground? When *may* a commissioner perform official duties for the commissioner of an adjoining district? When *must* a commissioner perform such duties? What are the duties of a commissioner in relation to supervision? In establishing boundaries? Whom may he employ for this purpose? To whom is such expense chargeable? When may a commissioner order repairs on building? To what amount? When may he order furniture purchased? To what amount? When may he order nuisances abated? When may he condemn a school-house? What amount may he direct to be expended to erect a building in the place of the one condemned? What change was made by the legislature of 1897 in relation to the amount a commissioner could direct to be expended?

What is his duty in relation to examination and licensing of teachers? What certificates may a commissioner revoke? Upon what ground? May he revoke a certificate upon any other ground? What oaths or affidavits may he administer? Is he entitled to fees for such service? When may he take testimony in appeal cases before the State department? What special authority has he in such cases? What reports is he required to obtain? What reports must he make? To what regulations is he subject. To whom may appeals from his acts and decisions be taken? What school meetings may he sometimes call? What accommodations can he require for examinations? What power has he to divide the territory of his district? When may he appoint a trustee? What is his duty in relation to teachers' institutes? In relation to normal school pupils? State moneys? Plans for school buildings?

When were school commissioner districts created? Give history of the power to alter or abolish school commissioner districts. Who has that authority now? What school commissioner districts may be divided? Are cities included in school commissioner districts? How many school commissioner districts are there in the State?

## CHAPTER III

### DUTIES OF SUPERVISORS, TOWN CLERKS, COUNTY TREASURERS, DISTRICT ATTORNEYS, AND COUNTY JUDGES, IN RELATION TO SCHOOL MATTERS

#### SUPERVISORS

[SEE TITLE III]

**Trustees of Gospel and School Lands.**— Supervisors are made the trustees of gospel and school lands.

**Annual Return of School Money.**— Each supervisor must make a return in writing on the first Tuesday of March in each year to the county treasurer, showing the amount of money in his hands either for teachers' salaries or library purposes, and the districts to which such money belongs. After such date he should not pay out any of such money until he receives the next certificate of apportionment from the school commissioner.

**Disbursement of School Moneys.**— It is the duty of supervisors to pay upon the order of the trustees of a district, or a majority of them, any money in his hands belonging to such district and applicable to the payment of teachers' salaries, or for tuition and transportation of pupils. The order upon the supervisor must show

that the person to whom such money is payable was a duly qualified teacher, and must also show the dates between which such teacher was employed.

**Payment to Collector or Treasurer.**—Whenever the collector or treasurer of a district shall present to a supervisor a copy of the bond which such collector or treasurer has executed, certified by the trustees, the supervisor shall pay to such collector or treasurer all the moneys in his hands due such district that may be applied upon the payment of the salaries of teachers.

**Payment of Library Moneys.**—A supervisor must pay the library money due a district upon the written order of the trustees of the district or a majority of them. He is not authorized to pay library money in any other way.

**Payment of Moneys Due to Union Free School Districts.**—A supervisor, upon the order of a board of education of a union free school district, should pay to the treasurer of such district all moneys due it for salaries of teachers or library purposes.

**Accounts of Receipts and Disbursements.**—A supervisor should keep a correct account of all moneys received and disbursed by him, and should make a report thereof, with proper vouchers, to the town board at its annual meeting.

**Record of Receipts and Disbursements.**— A supervisor is authorized by law to purchase, at the expense of the town, a blank-book in which he shall make a record of school moneys received or paid out, stating from whom and for what purposes they were received, and to whom and for what purposes they were paid. This record should be delivered to his successor in office.

**Filing Statement of Accounts.**— Within fifteen days after the term of office of a supervisor expires he should make a correct statement of the school moneys received and disbursed by him, and should file such statement or report in the town clerk's office, and should notify his successor in office that he has made and filed such report.

**To Obtain Funds from Predecessors.**— When a supervisor has given the bond required by law to the county treasurer, he should take a certificate or statement from the county treasurer showing that such bond has been given. He should also obtain from the town clerk a copy of his predecessor's report. He should then present to his predecessor in office such copy and the certificate of the county treasurer showing that he has executed the required bond, and should demand all school moneys in the hands of such predecessor in office, which money should be paid upon such demand.

**Recovery of Penalties and Forfeiture.**—It is the duty of the supervisor, when such duty is not imposed upon other officers by provisions of law, to sue for and recover all penalties and forfeitures provided for by the consolidated school law. After deducting his expenses he should report the balance to the school commissioner.

**Formation and Alteration of School Districts.**—When requested to do so, a supervisor may act as a member of the local board to consider the wisdom of forming new school districts or changing the boundaries of districts already formed. He cannot act in this capacity unless properly requested, and cannot be compelled to act when requested. In such matters he may act at his own discretion.

For this service supervisors are entitled to \$1.50 per day, which is a charge upon their respective towns.

**Fix Valuation of Property.**—The supervisors of the towns in which a school district is located shall, when properly requested to do so, determine whether the assessments made upon certain property in such towns are equitable when compared with each other. If in any case they find that the assessments are not equitable they may determine the relative proportion of taxes that ought to be assessed, and if they are unable to agree upon this, they

may call a supervisor from an adjoining town, and a majority shall have power to determine such proportion. For this service supervisors are entitled to three dollars per day, which shall be a charge upon their respective towns. (See chapter on "Taxes.")

**Fees for Paying Out School Money.** — The Legislature of 1904 amended the town law by providing certain fees to be paid a supervisor for services and including the paying out of school moneys. A supervisor, except in the towns of the counties of Orange and Yates, is entitled to a fee of one per-centum on all school moneys paid out in accordance with the provisions of the consolidated school law. He is not entitled to such fee on any money paid his successor in office.

#### TOWN CLERKS

[SEE TITLE IV]

**Preserve Records.** — It is the duty of a town clerk to preserve carefully all books, papers, and records deposited or filed in his office and relating to the schools of the town of which he is clerk. Any loss or injury to such documents should be reported immediately to the supervisor of the town.

**Record of Apportionment.** — Each supervisor deposits with the town clerk the certificate of apportionment for his town, which certificate he should record in a book provided for that purpose. He should also immediately notify trustees that the supervisor has filed such certificate.

**Obtain Reports of Trustees.** — It is the duty of the town clerk to see that all trustees within his town file in his office an annual report as required by law. Such reports are to be delivered by the town clerk to the school commissioner upon his demand.



**Report List of Officers to School Commissioner.**—It is also the duty of a town clerk to report to the school commissioner a list of officers and their post-office addresses for each school district in his town as such lists are provided him by school district clerks.

**Distribution of Documents.**—It is the duty of the town clerk to distribute to the trustees of the school districts in his town all books, blanks, or circulars forwarded to him by the State Superintendent or the school commissioner for such distribution. The documents which a town clerk is usually requested to deliver are the annual reports of the State Superintendent, the school registers, blank reports for trustees, and Arbor Day programmes. He should also deliver any other document placed in his hands by the school commissioner for that purpose.

**Record of Annual Accounts.**—He should record the annual account of receipts and disbursements of school moneys made to him by the supervisor and should also record the action taken by the town auditors on such account and on the vouchers accompanying it. When the State Superintendent requires it, he should furnish him a copy of such account.

**Final Accounts.**—A town clerk should record in the same book in which he records the annual

accounting of a supervisor, the final accounting of school moneys by the supervisor, and he should deliver a copy of such final accounting to the supervisor's successor.

**Filing Treasurer's Certificate.**— A town clerk should receive and record, from an outgoing supervisor, the certificate of the county treasurer showing that the bond of such supervisor's successor has been executed and approved.

**Records of Districts.**— He should receive, file, and record all descriptions of school districts and their alterations and all other papers and proceedings relating to school matters which are delivered to him by the school commissioner.

**Assist in Formation of Districts.**— A town clerk may become a member of a local board to pass upon an order issued by a school commissioner to change the boundaries of a school district or to form a new district. He may act in this capacity when requested to do so by the trustees of a district in his town to be affected by an order of the commissioner, but not otherwise. He may act at his pleasure in regard to attending the meeting of a local board for this purpose, but he cannot be compelled to attend. The law leaves his attendance optional. For service in this capacity a town clerk is entitled to \$1.50 per day, which is a charge upon his town.

**Preserve Records of Dissolved Districts.**— A town clerk should receive and preserve all books, papers, and records of a dissolved school district that are deposited in his office as the law directs.

**File Bond of Collector.**— A town clerk should receive and file any bond given by a collector of any school district in his town, and enter memorandum of the same in proper book. He is entitled to a fee of twenty-five cents for every such bond filed.

**Payment and Expenses.**— For any service performed by a town clerk in discharging the duties above mentioned, for which no fee is provided by law, he is entitled to the same compensation as he would receive for performing similar services for the town, and it should be audited by the town board as a charge upon the town. All disbursements in postage, express charges, etc., are a charge upon the town also.

#### COUNTY TREASURER

[SEE TITLE II]

**Annual Report to School Commissioner.**— Between the first and third Tuesdays of March of each year, a county treasurer should report to the school commissioners of his county the unexpended moneys applicable to the payment of teachers' wages and to libraries that were in the hands of the several supervisors of the towns of

the county on the first day of March preceding. He should also report all other moneys in his hands derived from payment of fines or from any other source, showing the town or towns or district or districts to which such money belongs.

**Require Bonds of Supervisor.**—As soon as the county treasurer receives the commissioners' certificate of apportionment, he should require the supervisor of each town in his county to execute a bond with two or more sureties in double the amount of school money to be respectively paid to each of such supervisors. Whenever a vacancy occurs in the office of supervisor and such vacancy is supplied, the person chosen to fill such vacancy should be required by the county treasurer to give a bond in like manner as supervisors regularly elected, in double the amount of school moneys in the hands of the former supervisor.

**Should Sue Bond.**—If the condition of the bond of any supervisor should be broken, the county treasurer should sue the bond in behalf of the town and pay the money recovered to the successor of the defaulting supervisor.

**Payment of School Moneys.**—After a supervisor has given a bond approved by the county treasurer, such treasurer should pay such supervisor the amount of school money due his town

as shown by the commissioners' certificate of apportionment.

**Payment of Unpaid Taxes.**—Whenever a collector is unable to collect the school-district tax upon any real estate and the matter is properly presented to the county treasurer, it is his duty to pay such tax from the contingent fund and to report the facts to the board of supervisors of the county. (See chapter XV.)

#### DISTRICT ATTORNEY

[SEE SECTION 26, ARTICLE III, TITLE III]

**Fines from Prosecutions.**—The district attorney should prosecute all persons guilty of misdemeanors in relation to school affairs, as required by law, and should report annually to the board of supervisors all fines collected as the result of such prosecution, and all such money received by him should be immediately paid to the county treasurer.

**Adjust Costs.**—When the amount claimed by district officers for defending actions and proceedings in behalf of a district is disputed by such district and the county judge is debarred from acting, such claim, when presented in due form, must be adjusted by the district attorney. (Article 1, title 15.)

## COUNTY JUDGE

**Appoint School Commissioner.**—When the county judge of a county has been notified by the county clerk that there is a vacancy in the office of school commissioner in any district in such county, it is the duty of such county judge to appoint a qualified person to fill such vacancy. (Section 6, title 5.)

**Adjust Costs.**—When the officers of a school district have brought or defended an action or proceeding in behalf of such district *by instruction*, and the amount claimed by such officers for costs and expenses is in dispute, and when such officers have brought or defended an action or proceeding in behalf of a district *without instruction*, and the district meeting refuses to allow the claim presented by such officers for costs and expenses and the matter is properly presented to the county judge, he should give such officers and district a hearing, examine into the facts of the case, and decide what amount should be allowed such officers, if any. The amount allowed by a county judge cannot exceed thirty dollars. A county judge cannot adjust a claim for costs and expenses incurred in bringing or defending appeals before the State Superintendent, but only in an “action or proceeding,” in court. (Article 1, title 15; 31 Misc. 590.)

## REVIEW QUESTIONS

Of what school property are supervisors trustees? What annual return of school moneys must supervisors make? When and to whom is such return made? When may supervisors pay out such moneys after a return has been made? Upon whose order should a supervisor pay the money in his hands for the payment of teachers' wages? What two facts should such order show? When should a supervisor pay to a collector or treasurer of a district the money due their district for teachers' wages? How should a supervisor disburse the library money to which each district is entitled? What disposition should a supervisor make of the money in his hands, for teachers' wages and library purposes, belonging to union free school districts? To whom should the supervisor make a report of the school moneys received and disbursed by him? What record of school moneys should a supervisor keep? What should he do with this record?

What statement should a supervisor file in the town clerk's office? When? To whom should he send notice that such report has been filed? State what is necessary to qualify a supervisor to obtain funds from his predecessor in office. What is the duty of a supervisor relative to penalties and forfeiture under the consolidated school law? In what manner may a supervisor assist in the formation or alteration of school district boundaries? Has he authority to act if not requested to do so? Can he be compelled to act in such capacity? To what compensation are supervisors entitled for such service? When may supervisors determine upon the equitable assessment of property? When may the supervisor of an adjoining town assist in such matters? What compensation does he receive for this service?

What is the general duty of a town clerk relative to preserving school district records? What record of a supervisor's certificate of apportionment should a town clerk make? What officers' reports must he obtain? What must he do with such reports? What report must he make to the school commissioner? What is his duty in relation to distributing documents? What is his duty in relation to records of annual accounts? Final accounts? Treasurers' certificate? Records of boundaries of districts? When may he assist in forming a new school district or in changing the boundaries of a district? Can he act if not requested? Can he be compelled to act? What compensation does he receive? What is his duty in relation to records of

dissolved districts? In filing bonds of treasurer or collector? To what compensation is he entitled? How is such compensation paid?

When must a county treasurer report to a school commissioner? What must such report show? What is his duty in relation to requiring bonds of supervisors? When should he sue the bondsmen of a supervisor? When should he pay school moneys to supervisors? When should he pay uncollected taxes on real estate to a school district collector?

What is the duty of the district attorney in relation to fines and prosecutions? In adjusting costs.

When may a county judge appoint a school commissioner? When may he adjust costs of district officers defending an action or proceeding for or against the district? What amount may he allow? May he adjust costs incurred in an appeal to the State Superintendent of Public Instruction in an action or proceeding as defined by the Civil Code?



## CHAPTER IV

### SCHOOL DISTRICTS

[SEE TITLE 6]

**Number of Districts.**—For the school year ending July 31, 1901, the number of school districts in the State was 11,711. The number differs from year to year as new districts are formed and others abolished.

**Origin of District System.**—The school act of 1795 provided that the inhabitants of a town might associate together for the purpose of establishing and maintaining schools. Schools were maintained under this plan until 1812, when the law was changed by the school act of that year providing that the town commissioners should divide their respective towns into a suitable and convenient number of districts which should be numbered.

**Division of Territory.**—The law provides that all territory of the State must be divided and included in school districts. If there is territory in any school commissioner district not included in some school district, it is the duty of the school commissioner having jurisdiction, to divide such

territory and order that it be included in the school districts to which it properly belongs.

**Constitutional Provision.**— Section 1 of article 9 of the State constitution requires the State legislature to provide for the maintenance and support of a system of free common schools wherein all the children of the State may be educated.

**School District.**— A school district is a subdivision of a town or city which is under the management and direction of officers who are required to maintain a free public school in and for such district as the law directs.

**Classes of Districts.**— Under the consolidated school law school districts are known as union-free school districts, common-school districts, and joint districts.

**Union Free-School Districts.**— Union free-school districts are the districts organized as such under the provisions of the consolidated school law, or under special acts of the State legislature. These districts have a board of education and are usually organized in the villages and cities of the State.

**Common-School Districts.**— All school districts in the State which are not organized as union-free school districts are common-school districts. In the place of a board of education a common-school district has a board of trustees.

**Joint Districts.** — Joint districts are school districts lying in two or more school-commissioner districts. These districts are either common-school districts or union free-school districts. Joint districts must bear the same number in each town.

**Public School.** — A public school is a school accessible to all the children of school age residing in a district or city, and supported by public taxation. Common schools and union free schools are public schools.

**School Year.** — The school year begins on the first day of August and ends on the thirty-first day of July following.

**Who May Attend School.** — All persons over five and under twenty-one years of age are entitled to attend the public school of the school district in which such persons reside, the full period for which such public school is in session, without payment therefor.\* (Title 7, § 36.) (The attendance of pupils over eighteen years of age cannot be included in the aggregate attendance on which the apportionment of school money is based. (Title 2, § 13, subd. 6.) Children over four years of age are entitled to attend a kindergarten maintained in the district in which such children reside, without charge. (Title 15, § 24.)

**Attendance of Non-resident Pupils.** — Non-resi-

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\* The Free School Act of New York was passed in 1867.

dent pupils may upon the written consent of the trustees of a district or a majority of such trustees be admitted to the public school of such district. The trustees determine the conditions upon which non-resident pupils are admitted and the amount of tuition which must be paid. Whenever the parents or guardians of non-resident pupils are taxed on property owned by them and located in the district in which such non-resident pupils attend a public school, the amount of such tax paid must be deducted from the tuition charged. (Sec. 36, Art. 5, Title 7.)

**Attendance of Indian Pupils.**—When a school district contains an Indian reservation on which a school for Indian children is maintained, the Indian children of such reservation are not entitled to the school privileges of the district in which such reservation is located and cannot be legally admitted to the public district school without the consent of the State Superintendent of Public Instruction. (Sec. 37, Art. 5, Title 7.)

**Description of Districts.**—There should be on file in the town clerk's office, a complete description in metes and bounds of each school district of his town. The districts of a town should also be numbered consecutively. In a town in which twelve school districts are located, such

districts should be numbered from one to twelve, inclusive. If any of the districts of such town should be abolished, the districts should be re-numbered by the school commissioner so as to make the numbers consecutive. For example, if district No. 8 should be abolished, No. 12 should be changed to 8, and the districts would then be numbered from 1 to 11 inclusive.

#### **Formation and Dissolution of Joint Districts.—**

When the best interests of public education will thus be conserved, a school district may be formed from the territory of two or more school commissioner districts by the joint action of the commissioners having jurisdiction or a majority of them.

A joint district may also be dissolved. This requires, however, the joint action of the commissioners of the commissioner districts in which such joint district is located. The proceedings are the same as those given under "Alteration of School Districts" in this chapter, except that all orders must be signed jointly by the commissioners or a majority of them.

**Alteration of Joint District by Special Meeting.—**When a majority of the commissioners of the commissioner districts in which a joint district is located fail to attend a joint meeting of such commissioners regularly called for the purpose of altering or dissolving such joint district, the

commissioner or commissioners attending such meeting, or any one of them, may call a special meeting of such district to determine whether it shall be dissolved or altered. The decision of the meeting on such question is as valid as though made by the commissioners. This proceeding is operative in cases only where a joint district lies in three or more commissioner districts.

**Dissolution of Districts.**—A school commissioner has authority to dissolve any school district under his jurisdiction for valid reasons. His action in such cases is subject to appeal to the State Superintendent. The territory of such district or districts, if more than one is dissolved, must be annexed to adjoining districts or must be created into a new district. This action may be taken without the consent of the trustees of the districts affected. It must be understood, however, that this action can be taken only when a district *is dissolved and its territory is annexed to other districts or used to form a new district.*

**Property of Dissolved Districts.**—When two or more dissolved districts are thus consolidated into one, the new district succeeds to the right of the property possessed by the districts from which it was formed.

When the territory of a dissolved district is attached to other districts, the supervisor of the town in which the school-house of such dissolved

district is located should sell the property of such dissolved district at public auction. He should give at least five days' notice of such sale by posting a notice in three or more public places of the town in which such district is located, one of which must be posted in the district so dissolved. The supervisor should deduct from the receipts of such sale all expenses. He should then use the remainder to pay the debts of the district. If there is a remainder after paying such debts, the supervisor should apportion it among the owners of taxable property in the district in proportion to their respective assessments on the last assessment rolls of the town, and should pay such money accordingly.

**Outstanding Moneys of Dissolved Districts.—**

The supervisor of the town within which the school-house of a dissolved district is situated has authority to receive, sue for, and collect, in his name of office, any money due the district from its former officers or from any other person.

**Application of Such Money.—**The supervisor should deduct from any moneys thus received all costs and expenses of collection and report the balance to the school commissioner. The school commissioner should apportion such balance equitably among the districts to which the parts

of such dissolved district were annexed. The district meeting of each district receiving such money should direct for what purposes it should be used.

**Adjustment of Affairs of Dissolved Districts.**—

After a district has been dissolved it continues to exist in law for the purpose of providing for and paying all its just debts. For this purpose its trustees and other officers continue in office; the district may hold special meetings, elect officers to fill vacancies, and vote taxes; and the inhabitants of the district and its officers may transact any other business necessary for the adjustment of such debts.

**Records of Dissolved Districts.**—The school commissioner, or if a joint district, the commissioners, should direct the clerk or other person who may be in possession of all books, papers, and records of the district to deposit such books, papers, and records in the town clerk's office of the town in which the school-house of such dissolved district was located. The commissioner should file a copy of the order served on the district clerk or other person with the town clerk,

A failure on the part of a district clerk or any other person to comply with the order of a commissioner in this matter is punishable by a fine of \$50.



## ALTERATION OF COMMON SCHOOL DISTRICTS

**Those that Cannot be Divided.**—Any school district which has a bonded indebtedness outstanding cannot be divided. The boundaries of such districts, however, may be changed by adding thereto territory from an adjoining district which has no bonded indebtedness.

**Methods of Alteration.**—In altering the boundaries of any school district there are two methods of procedure. One is *with* the consent of the trustees of the districts affected, the other is *without* the consent of such trustees.

It is impossible to change the boundaries of one district without changing the boundaries of at least one other. If territory is taken from one district it must be added to another. There will, therefore, always be at least two districts affected when a question of alteration of boundaries is involved.

**Action with Consent of Trustees.**—A commissioner should always, if possible, obtain the consent of the trustees of all districts to be affected, when he decides to alter the boundaries of a district. This consent should be in writing and should state definitely what changes are to be made. A description of the districts as they shall be after the proposed changes are made

should be incorporated in the written consent of the trustees. The State Superintendent has held that in a district having more than one trustee a majority vote at a meeting regularly called shall be considered the action of such board. The consent of the trustees of all districts having been obtained, the commissioner may issue an order making the alterations, and must file a copy thereof with the town clerk of the town in which such districts are located, and if such districts are located in two or more towns, a copy must be filed with the town clerk of each of such towns. The order should state definitely what changes are to be made and must recite that the consent of the trustees of each district has been given. These consents should be attached to and form a part of the order of the commissioner. The commissioner should also file copies of such order with the district clerk of the school districts affected.

The State Superintendent has held that a trustee cannot consent to transfer his own land from one school district to another.

**Action Without Consent of Trustees.**—This procedure is more complicated than the former. When the trustees of *any one* of the districts affected, refuse to consent to the proposed alteration the commissioner must follow out each step

provided by statute. He may make the order and file it with the town clerk of the town in which the districts are located. This order is known as the preliminary order, and must recite the refusal of the trustees of any district or districts so refusing, and the commissioner must direct that the order shall not take effect as to the dissenting district or districts until a day named therein, and not within three months from the date of such order.

Within ten days after filing such order the commissioner must give at least one week's notice in writing to the trustees of all the districts affected by such order, that, at a specific time, and at a place in the town in which one of the districts to be affected is located, he will hear the objections which may be offered to the proposed alteration.

This notice must state that an order of alteration has been issued, and a copy of such order must also be inserted in the notice.

**Local Board.** — Upon the request in writing of the trustees of any district affected, the supervisor and town clerk of the town or towns in which such district wholly or partly lies, may be associated with the commissioner upon the hearing of objections to his preliminary order. No supervisor or town clerk can act in this capacity

who has not been requested to do so. And such supervisor and town clerk must present such request, with proof of service of the same, to the commissioner, at the time and place fixed for such hearing, to establish their jurisdiction to act. The supervisors and town clerks thus requested to act and the commissioner, form the *local board* to hear and determine upon the merits of the objections offered to the proposed changes. If a supervisor or a town clerk should be associated with a local board without being requested by the trustees of the district, any decision of such board determined by the votes of such supervisor or town clerk would be declared void by the State Superintendent upon appeal to him in due form.

If a district has more than one trustee, a request for a supervisor or town clerk to act in conjunction with the commissioner must come from a majority of such trustees; such request having been decided upon at a regular meeting.

Town officers are not required by law to attend such meetings. Trustees are authorized to request them to attend; but there is no authority to compel their attendance. If any of these officers who are entitled to act as members of a local board should fail to appear at the hearing, the commissioner and those supervisors and town clerks

entitled to become members of the board, who do appear, may proceed with the hearing and render a decision thereon. If all supervisors and town clerks entitled to become members of such board should fail to appear at the hearing, the commissioner may proceed without them and decide on the merits of the objections offered.

But if the commissioner should not attend and if the town officers should attend, they would not have the authority to proceed, and the preliminary order issued by the commissioners would become void. In a case of this kind proceedings could be renewed if desired.

A local board has power to adjourn from time to time, but such adjournments can not extend the date of the hearing beyond the time designated in the preliminary order when such order shall take effect.

At the hearing before the local board those interested who are opposed to the order of the commissioner may present their evidence and arguments against the wisdom of the proposed changes, and those in favor may also present evidence and arguments in support thereof.

After all evidence and arguments have been presented, the board must decide by vote either to affirm or vacate the order of the commissioner.

Each member of the board is entitled to a vote, and a majority decides the action to be taken. If the board decides to vacate the order of the commissioner, the matter is ended and the changes cannot be made. An appeal from such decision may be taken to the State Superintendent, who may affirm, modify, or vacate such order. A record of the action of the board must be filed in the town clerk's office.

If the board votes to confirm the order of the commissioner, a final order must be made by the commissioner and members of the board, directing that the alterations be made.

This final order must recite the first order and all the proceedings taken thereafter, including the action of the local board.

### REVIEW QUESTIONS

What is the number of school districts in the State? What is the law in relation to the division of all territory in the State? What are the three classes of districts? When was the district system first inaugurated? How? What change was made in 1812? Define each. What is a public school? What are the limits of a school year? Who are entitled to attend a public school? For what period may such persons attend? When was the free-school act passed? What is the law in relation to the apportionment of public money on the attendance of pupils over 18 years of age? Who may attend a kindergarten? How may non-resident pupils be admitted to school? Who determines the conditions upon which they are admitted? What is the law in relation to charging such pupils tuition? What is the law regulating the attendance of Indian pupils upon a public school?

Where should a description of each school district be filed. What should be the character of this description? How should districts be numbered? When may a joint district be dissolved? How? When may the boundaries of a joint district be altered by a special meeting? How is such special meeting called? When may a school district be dissolved by a commissioner without the consent of the trustees of such district? When two or more dissolved districts are consolidated into a new district, what becomes of the property of such dissolved districts? What becomes of the property when such districts are attached to other districts? What notice of such sale must be given? How are the expenses of such sale met? What disposition is made of the remainder of such fund?

How may the outstanding money of a dissolved district be collected? What is done with money thus collected? What is the duty of a school commissioner in relation to such matters? What powers does a dissolved district possess as a district? What disposition should be made of the books, papers, and records of a dissolved district? Who should direct this? What is the penalty for failing to comply with this direction? What school districts cannot be divided? What change may be made in the boundaries of such districts? What are the two methods by which a school district may be altered? If the boundaries of one district are changed, what must follow? In what form should trustees' consent be given? What is done after the consent of the trustees is given? What must be done with the commissioner's order? What facts should the order of the commissioner recite? With whom should copies of such order be filed? Can a trustee consent to transfer his own land from one district to another?

By whom is a preliminary order issued to change the boundaries of a district when the trustees will not consent to such change? Where must such order be filed? What must it show? When must it take effect as to the dissenting districts? What notice must the commissioner give to the trustees dissenting to such changes? What must such notice contain? What officers may be associated with the commissioner at the hearing upon such order? Can these officers act if not requested by the trustees? What must these officers do to establish their jurisdiction to act? What would be the effect if either of these officers should act without being properly requested to do so? Can these officers be required to act in this capacity? If only part

of the officers requested to act in this capacity should appear at the hearing, what should be done? If none of such officers requested should appear, could the commissioner legally act in their absence? If the commissioner should fail to appear, and the other officers should appear, what could be legally done?

Can this board adjourn? For what period? What should be done at the hearing? What must be done with the records of the proceedings? If affirmative action is taken on the original order, what is the next step? What must the final order contain?



## CHAPTER V

### MEETINGS IN COMMON SCHOOL DISTRICTS

[SEE ARTICLE I, TITLE 7]

#### I. FIRST MEETING IN NEW DISTRICT

**By Whom Appointed.**—When the order forming a new school district goes into effect the school commissioner having jurisdiction must appoint a time and place for holding the first district meeting for the purpose of effecting a district organization.

**Notice of Meeting.**—The commissioner must prepare a notice which shall state the time and place at which the meeting will be held and the object for which it is called. This notice should be explicit in this respect and state that the meeting is called to elect officers, vote taxes, and transact any other business permitted by law. The notice must also include a description of the boundaries of the district, which must be the same as that contained in the order forming such district and must be given in metes and bounds. This notice should be delivered by the commissioner to some taxable inhabitant of the district, who is directed to serve such notice upon every

qualified voter residing in the district for which the meeting is to be held.

**Service of Notice.**—It is the duty of the person receiving this notice to notify every qualified voter of the district of such meeting by reading the notice in his or her hearing. If any resident of the district is absent from home, a copy of that part of the notice relating to the time, place, and object of the meeting should be left at the place of residence of such person. This notice must be served on the voters of the district at least six days, previous to the date of the meeting, exclusive of the day of service.

**Return of Notice.**—The person serving such notice should make a return to the district meeting showing in what manner each inhabitant of the district was notified. This is done by furnishing a list of names of those who were personally notified of the meeting and another list of those for whom the notices were left at their places of abode. These lists should be endorsed upon the back of the notice of such meeting and signed by the person who served the notice. It should then be presented by such person to the district meeting and filed with the records of the district. The object of this return is to show that the meeting was regularly called and to es-

tablish its jurisdiction in the event of any dispute arising. If a return is not made, it will be presumed that the meeting was regularly called, unless the preponderance of evidence should show otherwise.

**Penalty for Refusing to Serve Notice.**—Any taxable inhabitant of such district, when requested in due form to serve the notice of such meeting, who refuses or neglects to do so, forfeits the sum of \$5 for the benefit of the district.

**Powers of Such Meeting.**—The first meeting of a new district, when regularly called, possesses the powers of an annual meeting and may transact business that might properly come before an annual meeting.

**Failure to Hold Meeting.**—Whenever the time fixed for the first meeting of a new district shall have passed and such meeting shall not have been held, the commissioner may, in his discretion, appoint another time for such meeting by delivering another notice, as in the first case, to some taxable inhabitant of the district. A commissioner is not required to call a second meeting. He may act as he deems it expedient under the circumstances. Unless in the opinion of the commissioner it is necessary for the consideration of important business before the date of the

annual meeting, a second meeting should not be called.

## 2. SPECIAL MEETINGS

**By Whom Called.**—The call for all special meetings should be issued by the trustees of the district. When the office of trustee is vacant the district clerk should issue such call, and when the offices of trustee and clerk are both vacant, the school commissioner having jurisdiction may, when it is shown to his satisfaction that conditions demand it, issue a call for a special meeting.

**Method of Calling.**—There are two methods by which special meetings may be called. The voters of any district may at any annual meeting adopt a resolution prescribing the method by which notice of special meetings shall be given. Such resolution and such method of calling special meetings provided thereby shall remain in force until modified by some subsequent annual meeting. This method must be such that the notice may reasonably be expected to reach every voter of the district. Publishing notices in a paper published in the district or posting notices for a reasonable time in conspicuous places in the district, has been held by the State

Superintendent to meet the requirements of the law.

When the annual meeting fails to provide a special manner of giving notice of special meetings, the method provided by statute must be pursued. The district clerk, upon the request of the trustee or trustees of the district, must serve notice upon each of the qualified voters of the district at least five days, exclusive of the day of service, before the date of such special meeting. If there should be a vacancy in the office of district clerk, or if the clerk should refuse to act, a trustee of the district or some taxable inhabitant, upon order from the trustees of the district, must serve the notice of special meetings. If the offices of trustee and clerk are both vacant, the school commissioner may direct some inhabitant of the district to serve the notice of special meetings.

**Service and Return of Notice.**—The method of serving notice for special meetings on the inhabitants of a district is the same as that outlined in this chapter for serving notice for the first meeting of a district. The same method of procedure in making a return of service of notice should also be followed.

**Penalty for Refusing to Serve Notice.**—Any

taxable inhabitant of a district who refuses to serve a notice of special meeting when legally requested forfeits the sum of \$5 for the benefit of the district.

**Power of School Commissioners to Call Special Meetings.**—It will be observed from the preceding paragraphs relating to special meetings that a school commissioner may call and give notice of special district meetings for any school district under his jurisdiction when the offices of clerk and trustee for such district are vacant.

**Failure to Notify all Voters.**—If the failure to notify all voters of a district meeting can be shown to be wilful and fraudulent, the proceedings will be declared illegal upon appeal in proper form to the State Superintendent. If such omission of notice appears accidental or if the presence of the person failing to receive such notice would not change the result of the action of such meeting, or if such person attended the meeting, the proceedings will be declared legal. All matters of this character in dispute should be presented to the State Superintendent in the form of appeals.

**Powers of Special Meetings.**—The only business which can be considered at a special meeting is that for which the meeting was called and which was designated in the notice of such meeting.

## 3. ANNUAL SCHOOL MEETINGS

**Notice.**—The district clerk should give at least five days' notice of an annual meeting by posting notices thereof in at least five public places. A failure to give such notice would not invalidate the business transacted at an annual meeting, as the law fixes the date and all persons entitled to vote at such meetings should know when they are to be held, without receiving notice. (See subdivision 4 of section 34 of article 4 of title 7.)

**Date.**—The annual school meeting of each common school district must be held on the first Tuesday of August of each year.

**Hour.**—Unless a previous annual meeting has fixed some other hour, the meeting should be held at 7:30 o'clock P. M.

**Place.**—The annual meeting must be held in the school-house of the district unless otherwise voted by the district. If the district has two school-houses, the meeting should be held in the one generally used for that purpose. The trustees, however, may designate the other school building. A district may vote at an annual meeting or a special meeting called for that purpose, that future meetings shall be held at some other place than the school-house. If the district has no school-house, the meeting must be held at some place designated by the trustees.

**Failure to Hold Annual Meeting.**—If the date of the annual meeting has passed and such meeting has not been held in a certain district, the trustee or clerk of such district should call a special meeting to transact the business of the annual meeting. If the trustees or clerk of such district should fail to call such special meeting within twenty days after the date fixed by law for holding the annual meeting, the school commissioner having jurisdiction over such district or the State Superintendent of Public Instruction may order any resident of such school district to give notice that such meeting will be held. This notice must be given in the same manner as notices of special meetings and as described on the first page of this chapter. The district officers should make to such meeting the reports required to be made at annual meetings. A failure to make such reports subjects district officials to the same penalty that is imposed for a failure to report at annual meetings. Officers elected at such meeting are entitled to serve until the date of the next annual meeting or until their successors have been elected and have qualified.

**Notice of Adjourned Meeting.**—When any meeting of a district has been adjourned for more than one month, the clerk of the district



must post notices of the time and place of such adjourned meeting in at least five of the most public places in such district and at least five days previous to the time appointed for such meeting.

**Legislative Body of District.**—The electors of a school district, when assembled in a meeting regularly convened, constitute the legislative body of such district and may transact any business relating to the school affairs of such district which is permissible by statute. As special meetings are called to transact special business, the annual meeting of a district is the one in which nearly all the business of a district is transacted. The more important matters coming before an annual meeting as provided by law are as follows:

**Powers and Duties of Annual Meetings :**

1. To select a presiding officer, to be known as *chairman*, and in the absence of the district clerk to select a clerk *pro tempore*.
2. To elect district officers for the ensuing school year.
3. To determine by majority vote by ayes and noes whether a district officer shall be chosen to be known as *treasurer*.
4. To name the amount of the bond which the

collector and the treasurer must give to the district for the faithful performance of the duties of their respective offices.

5. To vote a tax upon the taxable property of the district to purchase, lease, or improve the school-house site or to enlarge the site already owned by the district. Also to vote a tax to hire or purchase rooms or buildings for school purposes and to keep them in repair. To vote a tax to build school-houses and to supply them with necessary furniture, fuel, etc.

6. To vote a tax not to exceed \$25 in any one year for the purchase of school apparatus, such as maps, globes, blackboards, etc., and for the purpose of supplying text-books and other school supplies for the use of the poor scholars of the district.

7. To vote a tax for the establishment, maintenance, support, and increase of a school library and to purchase a book-case.

8. To vote a tax to supply a deficiency caused by a failure to collect a former tax, also for the purpose of providing a record book for the district.

9. When district officers have lost or embezzled any of the funds of a district, the annual meeting may vote a tax upon the district to replace such funds.

10. The annual meeting may also vote a tax upon the district to meet the expenses incurred by the district officers in defending suits or appeals in the district's behalf and also in prosecuting suits or appeals in its behalf, when directed.

11. The district may also vote a tax to pay teachers' wages as they become due, and to pay any judgment obtained from a competent court by a teacher for teacher's wages.

12. An annual meeting may direct the trustees of a district to insure in any insurance company created under the laws of this State the school buildings, furniture, apparatus, etc.

**Method of Voting.**—All questions involving the expenditure of money or the levying of a tax upon a district must be by ballot, or by a vote of the ayes and noes, which must be properly recorded.

### REVIEW QUESTIONS

Who appoints the first meeting in a new district? When? Who prepares the notice? What should the notice show? What is done with such notice? Who serves it? Who designates the person to serve it? Upon whom must such notice be served? How should such notice be served? How should such notice be served upon persons who are absent from home? When must such notice be served? How should a return of service of notice be made? What should be done with such return? Why? What is the penalty for refusing to serve such notice? What powers does such meeting possess? If the time for holding such meeting has passed and the meeting has not been held, what should be done?

Who usually calls special meetings? When may the district clerk? The school commissioner? State Superintendent? How many methods of calling special meetings are there? Describe each. What is the method of service of notice of such meeting? Of the return of service of such notice? What is the penalty for refusing to serve such notice? What is the effect of a wilful failure to notify all qualified voters of such meetings? What if such failure were accidental? What if the presence of those who were not notified would not change the result of the action of a meeting? How should disputes of this kind be settled? What business can be transacted at a special meeting?

What notice of annual meetings must be given? By whom? Does a failure to give such notice invalidate a meeting? When does the annual meeting occur? At what hour? At what place? May it be held elsewhere? When? If the annual meeting is not held on the date fixed by law, what should be done? What business should be transacted at the meeting when called? For what period do the officers elected at such meeting serve? What notice must be given of a meeting adjourned for more than one month? What is the legislative body of a school district? What power has an annual meeting in relation to selecting a chairman? A clerk *pro tempore*? District officers? District treasurer? What is the duty of a district meeting in relation to the bond of treasurer or collector? Name the various purposes for which a district meeting may vote a tax? What direction should an annual meeting give trustees in relation to the insurance of property? How must a vote involving expenditure of money be taken?

## CHAPTER VI

### COMMON-SCHOOL DISTRICT OFFICERS

[SEE ARTICLES 1, 3, AND 6, TITLE VII]

**Officers of Common-School Districts.**— The officers of a common-school district are a trustee or trustees (as determined by the district), a clerk, a collector, a librarian, and a treasurer when the district has decided to elect such officer.

#### TRUSTEE

**Eligibility.**— To be eligible to the office of trustee a person must possess *two* distinct qualifications. He must be a resident of the district and qualified to vote at its meetings, and must also be able to read and write. A woman possessing these qualifications is eligible to hold the office of trustee.

**Prohibitions.**— Trustees are prohibited from holding the office of district clerk, collector, treasurer, or librarian; also from holding the office of school commissioner or supervisor. A trustee accepting any of these offices would upon the acceptance of such other office vacate the office of trustee. A person holding the office of clerk, collector, treasurer, or librarian who should ac-

cept the office of trustee would also, upon the acceptance of the office of trustee, vacate such other office.

**Election.**— The election of trustees must take place at the annual meeting in all districts except those districts included in the provisions of the next paragraph. The election must be by ballot and the trustees must supply ballot-boxes for this purpose. The district meeting must by some method appoint two inspectors of election. This may be done by adopting a motion to instruct the chairman or clerk of the meeting to appoint such inspectors. A motion or resolution might be adopted naming two inspectors. The district meeting might also pursue any other method in selecting the inspectors.

In all cases the election must be by ballot. Even if the name of but one person is presented to the district, the election of such person, to be legal, must be by ballot. The votes cast for trustee must be deposited in the ballot-box provided for that purpose. The inspectors should report the result of the vote to the chairman, who should announce the result to the meeting, and the person receiving the majority of all votes cast is duly elected.

In cases where the election was not by ballot,

the State Superintendent of Public Instruction has held, when such cases were duly presented to him upon appeal, that such elections were void and has ordered that new elections be held in such districts.

The ballots used in school-district elections must be printed or written, or partly printed and partly written, and must contain the name of the person voted for and the title of the office. The names of all officers to be elected may be on one ballot, as.

TRUSTEE

John Jones

CLERK

William H. Smith

COLLECTOR

George Brown

The district clerk should keep a poll-list showing the names of all persons whose votes are received.

**Elections in Districts Having 300 Children of School Age.**—When the last annual report of the trustees of a common school district to the school commissioner shows that the number of children of school age in such district exceeds 300, the qualified voters at any annual meeting may decide to hold a meeting for the election of officers on the Wednesday next following the date of the annual meeting. The vote taken must be ascertained

by taking and recording the ayes and noes, and a majority of those voting shall decide the question.

After such determination the election of trustees, as well as of other officers in such district, shall be held on the Wednesday next following the annual meeting, between 12 o'clock noon and 4 o'clock in the afternoon in the principal school-house in the district; but the trustees may, upon resolution, extend the hours of such election from 4 o'clock P. M. until sunset. The trustees may also direct, upon resolution, that the election shall be at some other place than the school-house. In such case a notice must be given, stating where the election will be held, and such notice must be printed in some newspaper published in the district at least one week previous to the time for holding such election, or must be posted in five conspicuous places in the district.

The trustees shall act as inspectors of election, and if a majority of the trustees are not present at the time for opening the polls, those present may appoint, from any of the legal voters in attendance, inspectors to act in the place of absent trustees. If none of the trustees should be present, the legal voters in attendance may select three of their number to act as inspectors. If a district coming within this provision has but one



trustee, the legal voters of the district present may select two of their number to act with the trustee as inspectors.

The district clerk should be present and keep a poll-list of those voting; such list to be kept in the same manner as at the election which occurs on the date of the annual meeting. Ballot-boxes should be provided by the trustees; ballots like those used in the elections at annual meetings should be used, and the method of voting and declaring results which is pursued at annual meetings in the election of officers should be followed in electing officers in these districts. If more ballots are deposited than there are names on the poll-lists, the inspectors should withdraw a sufficient number of ballots to make them correspond.

When the time for such election has passed and no election has been held, the trustees or clerk should call a special meeting for the election of officers. If the trustees or clerk fail to call such special meeting within twenty days, the school commissioner having jurisdiction or the State Superintendent may order some inhabitant of the district to give notice as provided by law for such special meeting. The officers elected at such special meeting hold office until the next

annual meeting or until their successors are elected and have qualified.

All disputes relating to these elections may be referred to the State Superintendent, whose decision is final, and who may order a new election.

This provision, however, relating to the election of officers — separate from the annual meeting — for districts having more than 300 children of school age, does not apply to school districts in cities, nor to union free-school districts whose limits correspond to those of an incorporated village, nor to any school district organized under a special act of the legislature providing a different time and manner for electing such officers, nor to any of the school districts in the counties of Richmond, Suffolk, Chenango, Westchester, Warren, Erie, and St. Lawrence.

This provision for the *election of officers* on the Wednesday following the annual meeting must not be confounded with the *annual meeting*. It is simply a meeting for the election of officers, and no other business can be transacted. The annual meeting of the district must be held on the date fixed by law, and the business of the district, except the election of officers, such as reports of officers, voting to authorize a tax levy, etc., must be transacted at the annual meeting.

**Term of Office.**—The term of office of a sole trustee is one year, and *one year* as defined by the school law means from one annual meeting to the next. The full term of a joint trustee is three years. In districts having three trustees these officers are called *joint trustees*. The term of office of trustees chosen at the first meeting of a new district expires on the date of the first annual meeting held after election.

**Number of Trustees Determined.**—At the first annual meeting held after the formation of a new district, the electors of such district shall determine by resolution whether such district shall have one or three trustees. A majority of those present and voting shall decide the question. If the district should decide to elect three trustees, the electors present at the meeting should proceed to elect three trustees for terms of one, two, and three years, respectively. The ballots cast for these trustees should designate for which term each is elected. At each succeeding annual meeting thereafter, one trustee should be elected for three years to succeed the trustee whose term of office will expire at such time. Until further action is taken by a district at an annual meeting its decision to have three trustees or one, as the case may be, shall remain in force.

**Reduction of Number of Trustees.**—In a district having three trustees, the electors of such district may, at any annual meeting, by resolution, decide to reduce the number of trustees of such district from three to one. The votes of a majority of those voting are sufficient to adopt such resolution. When a district decides to change to one trustee, no trustee should be elected for such district until the term of office of each trustee has expired, and thereafter at each annual meeting but one trustee should be elected, until different action is taken by some future annual meeting.

**Increase in Number of Trustees.**— In a district having but one trustee, the electors may at any annual meeting, by resolution, increase the number of trustees for such district from one to three. The vote necessary to adopt such resolution is *two-thirds* of the legal voters present and voting at such annual meeting. Upon the adoption of a resolution to make such change in the number of trustees, the annual meeting should proceed to elect three trustees in the same manner as when the first annual meeting of a district decides to elect three trustees, and as described in this chapter on page 79. Thereafter, at each annual meeting, but one trustee should be elected

for a term of three years to succeed the trustee whose term of office expires at that time.

**Notification of Election.**—It is the duty of the district clerk, or of the person who acted as clerk of the district meeting, to notify in writing all persons elected to any office immediately after such election.

**Acceptance and Refusal of Office.**—The presence of any person at a district meeting which elects him to a district office, is deemed sufficient notice to him of his election.

All persons elected to district offices are deemed to have accepted such offices unless within five days after having received notice of such election they shall file with the district clerk a written refusal to accept.

**Failure to Elect Trustees at Annual Meeting.**—If an annual meeting, or the meeting of a district which elects its officers on the Wednesday following the annual meeting, should be held without electing trustees, it has been decided by the State Department that the trustees holding over are trustees for the ensuing year, as no vacancy exists which can be filled by election or appointment.

**Vacancy in Office.**—The office of trustee may be vacated by death, by removal from the dis-

trict, by incapacity, by refusal to serve, or by removal from office by the State Superintendent.

A trustee who publicly declares that he will not accept or serve in the office, or who refuses to serve, or who neglects to attend three successive meetings of the board of trustees of which he has been duly notified, vacates his office by refusal to serve, unless he renders a good and valid excuse therefor to the other trustee or trustees.

**Removal from Office.**—The only person authorized to remove a trustee from office is the State Superintendent of Public Instruction. Such superintendent may remove a trustee for either of the following causes:

1. The wilful violation or neglect of duty under the consolidated school law or any other act pertaining to common schools.

2. The wilful disobedience of any decision, order, or regulation of the State Superintendent.

All proceedings in cases of this kind must be brought before the State Superintendent in the form of appeals asking for the removal of the trustee.

**Supplying Vacancy.**—Whenever a vacancy occurs in the office of trustee it may be filled by a special meeting of the school district, duly called, in which the vacancy exists. If such vacancy is

not filled by a special meeting within one month from the date on which it occurred, the school commissioner of the commissioner district in which the school district is located may appoint some eligible person to fill such vacancy. The person selected by a district meeting to fill such vacancy may serve for the balance of the unexpired term, but when appointed by a school commissioner such trustee may serve until the date of the next annual meeting of the district.

**Filing Appointment — Notice.** — Whenever a school commissioner appoints a trustee to fill a vacancy, such appointment must be in writing and must be filed by the commissioner in the office of the district clerk. Upon receipt of such notice of appointment the district clerk should immediately serve a copy upon the person appointed.

**Penalty for Refusal to Serve or Neglect of Duty.** — Any duly qualified person elected or appointed to the office of trustee, who refuses to accept the office, forfeits the sum of \$5.

Any duly qualified person elected or appointed to the office of trustee, who has not refused to accept but who neglects to perform the duties of the office, forfeits \$10.

**Acceptance of Resignation.** — Whenever the

trustee of any district files his written resignation with the school commissioner having jurisdiction, and the commissioner files such resignation and his acceptance thereof with the district clerk, the filing of such resignation and acceptance is a bar to the recovery of either penalty mentioned in the preceding paragraph. Neither can the penalty be recovered if such resignation is made to, and accepted by, a district meeting.

**Board of Trustees.**—The trustee or trustees of every school district are constituted a “board of trustees” and are, under the law, corporate bodies. This applies to districts having one or three trustees, whichever the case may be. Whenever the term “board of trustees” is used in this work it may be applied to a district having a sole trustee as well as to those having more.

**Corporate Bodies.**—As boards of trustees are “corporate bodies” under the law, it is necessary to have a clear idea of the meaning of that term. A corporate body consists of one or more natural persons, established by law, usually for some specific purpose, and continued by a succession of members. (Bouvier’s Law Dictionary.)

**Hold Property as a Corporation.**—Boards of trustees may hold as a corporation any property vested in or which may at any time be trans-



ferred to the trustee or trustees of a district for the use of such district.

**Powers of Sole Trustee.**—A board consisting of a sole trustee has all the powers that a board of three trustees possesses. It is also subject to the same duties, liabilities, and penalties that are conferred or imposed by law upon a board of trustees or a majority of them.

**Action of Board, How Determined.**—As the trustees of a district form a board, any business transacted by them must be at a meeting of such board, duly convened. If two members of a board of three trustees attend a meeting of such board regularly called, and if the third member, having been notified, fails to attend, any act, order, or decision agreed upon by such two members is as valid or binding as though such action had been agreed upon by all members of said board. If all three members of such board were present, and any two members thereof should agree upon any proposition before the board, the action taken would be valid and would be considered the action of the board. The minutes of the meeting shall recite the action or vote of each member, and such minutes, when showing that two members or a majority reached a conclusion upon any order, act, or motion, are conclusive proof of the action of such board.

**Meetings of Board.**—A board may fix a time at which it will hold regular meetings, and any member of a board, by giving at least twenty-four hours' notice, may order a special meeting of such board.

**Trustees May Act When Vacancies Exist.**—When there is one vacancy in the office of trustee in a district having three trustees, the remaining two trustees may exercise any powers vested in the board and are subject to all the duties and liabilities of three trustees. If two vacancies should exist on such board of trustees, the remaining member would be subject to the same duties and liabilities and could exercise the same powers as the three members, and as though such remaining trustee were a sole trustee.

**Special Meeting to Fill Vacancy.**—Whenever a vacancy exists in a board of trustees, the remaining trustees should immediately call a special meeting of the district for the purpose of filling such vacancy.

#### REVIEW QUESTIONS

What are the officers of a common school district? What two qualifications must a person possess to be eligible to the office of trustee? What women are eligible to this office? What offices are trustees prohibited from holding? What would be the effect if a trustee should accept such office? When are trustees elected? How must such officers be voted for at school meetings? How are ballot-boxes supplied? How are inspectors of election chosen?

Describe the process of voting for a trustee at a district meeting. How may an illegal election be set aside? What kind of ballots must be used? Who keeps the poll-list at a district election?

What districts may hold the election of officers on Wednesday following the annual meeting? What action is necessary in order that such districts may hold the election at such time? How must such vote be taken? At what hours must such election be held? How may the time be extended? At what place in the district should the election be held? How may it be held elsewhere? How may such notice be given? Who act as inspectors at such elections? How are vacancies supplied when part of the trustees are absent? When all are absent? How are additional inspectors chosen at elections in districts having but one trustee? Who keeps a poll-list of such elections?

How are ballot-boxes supplied? What kind of ballots should be used? Describe fully the method of voting. How is the result declared? What action should be taken when the number of ballots and the number of names on the poll-list do not agree? When may an election be held at a special meeting? When may the commissioner or State Superintendent direct a special meeting to be held? For how long do officers chosen at such special meetings serve? How are disputes in relation to these elections settled? To what districts are these provisions for separate elections not applicable? Distinguish between an election of officers in these districts and the annual meeting in such districts.

What is the term of office of a trustee? What is *one year* in this meaning? What is the term of a joint trustee? What is meant by a joint trustee? How is the number of trustees for a district determined? Describe the process of election where a district decides to elect three trustees. At elections thereafter, how many trustees are elected and for what period? Describe fully how a district having three trustees may change to one. From one to three. Who should notify a trustee of his election? How? What is considered a notice of election? When are officers deemed to have accepted?

What is the ruling of the State Department in relation to trustees of districts in which an annual election did not occur? In what ways may the office of trustee become vacated? How may a trustee vacate his office by refusal to serve? Who may remove a trustee from office?

For what reasons? How must such proceedings be brought? How may a vacancy in the office of trustee be filled by election? By appointment? When a vacancy is filled by election, for what period is a trustee chosen? For what period when appointed? How is the appointment by a commissioner made? Where is it filed? What action must the district clerk take?

What is the penalty for refusing to accept the office of trustee? What is the penalty in cases where trustees do not refuse to accept, but refuse or neglect to perform their duties? What is a bar to recovery of penalty in either case? Explain the application of the term "board of trustees." What is a corporate body? What power have boards of trustees to hold property? What powers have sole trustees? Explain fully how the action of a board is determined. What should the minutes of meetings of a board show? When are regular meetings of a board held? When may special meetings be held? In case of a vacancy on a board of trustees, what powers do the remaining trustees possess? In case of two vacancies, what power does the remaining trustee possess? When a vacancy on a board exists, what action should be immediately taken by the remaining members?

## CHAPTER VII

### COMMON-SCHOOL DISTRICT OFFICERS — (*Continued*)

#### TRUSTEES, POWERS AND DUTIES

[SEE ARTICLE 6 OF TITLE VII]

The trustee of a school district is its most important officer. He is the executive officer of the district and has charge of the general management of its school affairs. He should execute such official acts as the law directs and should carry into effect instructions received at a district meeting, provided they do not conflict with the school law or with the authority vested in him by virtue of such law. The important powers and duties of trustees as defined by law are as follows:

**Special Meetings.**—To call special meetings when circumstances require it.

**Notice of Meetings.**—When there is no clerk of the district, or when the clerk is absent, is unable to act, or refuses to act, the trustees may give notice of special, annual, or adjourned meetings.

**Tax-Lists and Warrant to Collector.**—Whenever a district meeting has voted a tax, or whenever a tax is authorized by law, it is the duty of

the trustees to make out a tax-list for such tax and annex thereto their warrant directed to the district collector, for the collection of the taxes included in such tax list.

**To Purchase or Lease School-houses, Sites, etc.**—When directed by a district meeting, trustees may purchase or lease a site or sites for school buildings. They may also, when directed by the district, build or purchase a school-house or school-houses. They may also hire rooms or buildings for school purposes.

**Fuel and Furniture.**—Trustees should also furnish school-houses, rooms, or school buildings with necessary fuel, furniture, school apparatus, heating apparatus, and appendages; and they may pay the expense thereof when such expense is not more than \$50 in any one year, without a vote of the district. The district may vote an additional amount for this purpose.

**Custody of Property.**—Trustees are the custodians of the property belonging to the district; such as school-houses, sites, and appurtenances thereto.

**Insurance of School Property.**—When trustees are directed by a district meeting to insure the school buildings, furniture, apparatus, etc., in some company created under the laws of this

State, or authorized to do business in this State, it is their duty to insure such property as directed and to raise the premium to pay for such insurance by a tax upon the district. When not directed by a district meeting to insure such property, it is the duty of the trustees to insure it in some company created by the laws of the State or authorized to do business in the State. In this case the premium should also be raised by a tax upon the district.

**Insurance of Library.**—It is also the duty of trustees to insure the school library in such a company in an amount fixed by the district and to raise the premium by a district tax.

**Employment of Teachers.**—It is the duty of trustees to contract with all teachers employed in the district; to determine the number of teachers to be employed; and to determine their compensation, term of service, etc. A district meeting cannot by resolution restrict the power of a trustee in this respect. A trustee cannot legally employ a teacher who is not qualified under the law.

**Removal of Teachers.**—For sufficient reasons, the trustees of a district may dismiss a teacher.

**Rules and Course of Study.**—It is the duty of trustees to establish courses of study, and rules for the government and discipline of the school.

This must not be interpreted as meaning that trustees have the power to prescribe the method of imparting instruction, as this is a right vested solely in the teacher.

Trustees are also required by special enactment to make provision for teaching the effects of alcoholic drinks, stimulants, and narcotics upon the human system.

**Payment of Teachers' Salaries.**—Trustees may draw orders upon the supervisor of the town or upon the collector or treasurer of the district for the payment of teachers' salaries from the public money received from the State for that purpose. When this money is insufficient, trustees may raise the remainder by a tax upon the district.

**May Levy in Advance for Teachers' Salaries.**—When there is no public money due a district or in the hands of district officers, and when no money has been raised by local taxation for the payment of teachers' salaries, and when a district meeting has not voted a tax therefor, the trustees may levy and collect, in advance, a tax sufficient to pay the salary of the teachers employed for four months.

**Should Divide School Moneys in Portions.**—



When a school-district meeting votes that the public money received from the State shall be divided into portions and that such portions shall be used to apply on the salary of teachers for the different terms of the year, it is the duty of trustees to comply with such direction of the district meeting.

**To Provide Water-closets, Etc.**—It is the duty of a board of trustees to provide water-closets for their districts in the manner required by law, and it must keep them in a clean and wholesome condition. A failure to do this is sufficient cause to remove a trustee from office and to withhold from the district its share of public money. When a district is wholly unprovided with suitable outbuildings, trustees, upon direction from the school commissioner having jurisdiction, or from the State Superintendent of Public Instruction, may spend \$50 in the erection of such buildings.

**Repairs to School-houses, Staircases, Etc.**—It is the duty of trustees to keep all school buildings, furniture, and apparatus in proper repair and to make them reasonably comfortable for use. They may expend each year for this purpose, without a vote of the district, an amount not to exceed \$50.

Trustees are also required by law in all districts throughout the State, except the cities of New York and Brooklyn, to provide stairways constructed on the outside of all school buildings that are more than two stories high, with suitable doors connecting therewith from each story above the first. Trustees are directed to provide these stairways, without a vote of the district, at a reasonable cost, which shall be raised by tax as other taxes upon the district are raised.

**May Abate Nuisances.**— When they are so directed by the school commissioner, it is the duty of trustees to abate any nuisance in or upon the school premises, provided it can be done for an expense not to exceed \$25.

**Clean Rooms — Employ Janitors, Etc.**— Trustees should see that the school-room is always reasonably clean, and should provide pails, brooms, and other implements necessary for such purpose. It is also the duty of trustees to employ a janitor to build fires, sweep and otherwise clean the school-rooms, and to do the janitor work generally in and about the school-house. They may pay a reasonable compensation for such services without a vote of the district, and may raise such money by tax in the same manner as other district taxes are raised.

**Purchase of School Apparatus, Account Books, Etc.**—The trustees of a district may expend, without a vote of the district, for a dictionary, maps, globes, or other school apparatus, a sum not to exceed \$25 in any one year. They may also provide blank-books in which to record their accounts and in which to make a record of all business transactions of the district.

**Trustees May Establish Temporary or Branch Schools.**—Whenever it is established to the satisfaction of the trustees of a district that it is necessary to form a branch school in the district for the purpose of placing within the reach of a portion of the children of such district the school advantages to which all children are entitled, said trustee must establish such temporary or branch school. If a portion of a district is so remote from the school-house that the children of such locality are unable in inclement or winter weather to attend the regular school, without suffering unreasonable inconvenience or hardship, it has been held by the State Superintendent of Public Instruction that such a state of affairs is sufficient ground for creating a branch school. Or if the rooms of the school building are overcrowded and insufficient for the accommodation of all children of school age, it is a proper reason for establishing a temporary school.

The trustees, under either of the above conditions, must hire and furnish suitable rooms in which to maintain such branch school, with proper accommodations, and all expenses incurred are a charge upon the district. This power to establish a temporary or branch school is vested in the trustees without a vote of the district; but in exercising this power they must use proper discretion and be warranted under the circumstances to establish such school.

**May Raise any Legal Tax.**— When authorized by law or when directed by a vote of the district meeting to incur any expense for the district, trustees have the power to raise any such amount by tax in the same manner as if a specific sum had been voted by a district meeting; and it is their duty to do so.

**Use of School Building.**— The trustees of a district or any one of them, when not forbidden by another, may permit the use of the school building, when it is not in use for school purposes, for the purpose of giving and receiving instruction in any branch of education or in the science and practice of music. If one trustee should object, the school-house could not be used for such purpose, even if the other trustees consented.

The use of the school buildings for religious or other purposes is a different proposition. In cases of this kind it has been a ruling of the State Department, to which all State Superintendents have adhered, that, where no objection is raised, the school-house may, in the discretion of the trustee or trustees, be used for such purposes; but when any of the taxable inhabitants of a district object to the using of the school-house for religious services, Sunday-school, lodge or society meetings, etc., the trustee or trustees have not the authority to permit the school-house to be used for such purposes. Where a school-house is given for such use, upon appeal in due form to the State Superintendent, the trustees of such district will be restrained from permitting the school-house to be used for such purposes.

**Trustees Shall Keep Accounts.**— Trustees are directed by law to procure a blank-book in which they shall keep a correct account of all moneys received or disbursed by them, and of all orders drawn upon the supervisor, collector, or treasurer. They are also directed to provide a register for the use of the teacher, but as the State Department supplies registers to all schools, it is not necessary for trustees to provide them.

**Trustees Must Make Annual Reports to District.**— Trustees are required by law to make a written report to the annual meeting of the district. This report must cover all official business transacted by them during the year. It must show the amount of money the district received from the State, the amount of money raised by tax upon the district, and the amount received from all other sources. It must also contain a detailed statement of all money paid out, to whom paid, and the purposes for which it was paid.

**Trustees Must Make Annual Report to School Commissioners.**— Trustees are required by law to make an annual report on the first day of August to the school commissioner in writing, and in the form prescribed by the State Superintendent of Public Instruction. Blanks are provided for this purpose and the report must include such general statistics as the State Superintendent requires. If the district is a joint district, trustees must make a report for each of the counties in which the district is located. This report must be filed with the town clerk of the town in which the school-house is located.

**Trustees Must Pay Balance to Their Successors.**— A trustee should pay immediately, upon

the expiration of his term of office, to his successor all moneys in his hands belonging to the district.

**Refusal of Trustees to Render Account.**— Any trustee who shall wilfully neglect or refuse to make an annual accounting, forfeits any unexpired part of his term of office and becomes liable to the trustees of the district for any money of the district in his possession. It is the duty of the trustees to sue such former trustee for such moneys, and when it is recovered to apply it for the use of the district.

**Certain Acts of Trustees Misdemeanors.**— Any trustee or trustees who shall give an order upon the supervisor of their town, or the collector or treasurer of their district, for payment of teachers' salaries when there is not sufficient money applicable thereto in the hands of such officers is guilty of a misdemeanor.

A trustee who appropriates public money for the payment of the salary of a teacher who is not legally qualified is also guilty of a misdemeanor.

**Moneys a Trustee May Receive.**— A trustee has no authority to receive or hold any of the public money apportioned to his district by the State, nor to receive or hold any of the money raised by local tax upon the district. This

money must be received and held by the officers designated by law for that purpose, and paid by them upon the orders of the trustees. A trustee may receive money from the sale of real or personal property of the district, from insurance due the district, from bonds of the district issued and sold by him, from tuition fees, and from other sources. When a district has a treasurer who has given sufficient bond, all such moneys received by the trustee should be immediately paid over to the treasurer.

**Liabilities of Trustees.**— Trustees are responsible to their districts for any loss which the district sustains through their carelessness or neglect.

### REVIEW QUESTIONS

Who is the most important officer of a school district? Why? What acts should he execute? What is his duty in relation to special meetings? When may trustees give notice of school-district meetings? What is the duty of trustees in relation to tax lists and warrants to collectors? When may trustees purchase or lease a site? When may they purchase or build a school-house? What amount may they expend for fuel, heating apparatus, school apparatus, furniture, etc., without a vote of the district? Who is the custodian of school property? When a district meeting gives direction to insure school property, what is the duty of trustees in relation thereto? What is the duty of trustees if a district gives no direction about insuring property? What is the duty of trustees in regard to insuring libraries? When may a trustee remove a teacher? What is the duty of trustees in relation to employing teachers? Who may establish rules for the discipline and government of a school? Who can determine how such rules shall be en-



forced? Whose duty is it to provide courses of study for schools? By what orders may trustees pay teachers? When may trustees levy a tax in advance for teachers' salaries? For what period in advance may the salary of teachers be raised by tax? May a trustee raise such money without a vote of the district? When should trustees divide the public money in portions? How should such portions be applied?

What is the duty of trustees in relation to the erection and care of water-closets? What is the penalty for a failure or refusal to comply with this provision? What amount may be expended by trustees in erecting such buildings? Who should keep school buildings in repair? What amount may be expended without vote of the district? What is the requirement in relation to staircases for school buildings? When should trustees abate nuisances? What is the duty of trustees in relation to cleaning rooms and employing janitors? What amount may trustees expend for a dictionary, maps, globes, or other school apparatus? When may trustees establish temporary or branch schools? For what purposes may trustees permit the use of school buildings? What is the rule relative to the use of school buildings for religious or similar purposes?

What record of accounts must trustees keep? To whom must trustees make reports? What must these reports show? With whom must the report to a school commissioner be filed? What should trustees do with district funds in their possession upon the expiration of their term of office? What is the penalty for a refusal of a trustee to render an account as required by law? What acts of trustees are misdemeanors? What moneys has a trustee no right to receive? What money may a trustee receive? What should he do with such money? For what are trustees responsible to their district?

## CHAPTER VIII

### COMMON-SCHOOL DISTRICT OFFICERS.—(*Continued.*)

CLERK, COLLECTOR, TREASURER, LIBRARIAN

#### *General Provisions*

[SEE ARTICLE 3, TITLE VII]

**Eligibility.**— To be eligible to hold the office of clerk, collector, or treasurer of any common-school district a person must be a resident of the district and qualified to vote at its meetings and must also be able to read and write. In addition to these qualifications a treasurer must be a taxable inhabitant of the district. Women possessing the above qualifications are eligible to these offices the same as men. These officers are prohibited from holding the office of trustee. If a person holding one of the above offices should accept the office of trustee, he would vacate the office held at the time he accepted the office of trustee.

**Term of Office.**— The term of office of clerk, collector, or treasurer is one year, and in a new district the term of office of these officers elected at the first meeting expires at the next annual meeting held after their election.

**Election.**— These officers must be elected by ballot at the annual meeting in the same manner that trustees are elected, and that is described fully in the chapter on trustees under the heading “ Election.” In a district having more than 300 children of school age, as shown by the last annual report of the trustees, when such district has decided to elect its officers on the Wednesday following the annual meeting, the election of clerk, collector, and treasurer must be held on such Wednesday and in the manner described under the heading “ Election in Districts Having More than 300 Children of School Age,” in the chapter on “ Trustees.”

**Notice of Election.**— If any person elected to the office of clerk, collector, or treasurer should be present at the meeting at which such election occurred, his presence at such meeting is considered sufficient notice of his election. The clerk of the district, or the person acting as clerk, should immediately notify in writing the persons elected to these offices, of their election, and unless a written refusal to serve is filed by such persons within five days from the date on which they received notice of such election, they are deemed to have accepted the office to which they were elected.

**Penalty for Refusing to Serve.**— Any qualified person elected or appointed to the office of clerk, collector, or treasurer, who files a refusal to serve, forfeits \$5; and any such person elected or appointed to any such offices, who does not file a refusal to serve, but who neglects or refuses to perform the duties of the office to which he was chosen, forfeits \$10 and vacates the office.

**Bar to Recovery of Penalty.**— Whenever a person elected to the office of clerk, collector, or treasurer shall file with the school commissioner having jurisdiction his resignation of such office and the school commissioner shall accept it and shall file such resignation and his acceptance thereof with the district clerk, such action is a bar to the recovery of any penalty for refusal to serve.

**Vacancies.**— A collector or treasurer vacates his office by not executing, as required by law, a bond to the trustees, and where these offices become vacant for this or any other cause, or where there is a vacancy in the office of district clerk, such vacancies may be supplied by appointment by the trustees of the district. The persons appointed to fill these vacancies may serve in such offices until the next annual meeting of the district and until other officers are elected and assume their duties.

**Filing and Notice of Appointment.**— Whenever an appointment to fill a vacancy in the office of the clerk, collector, or treasurer is made by the trustees of a district, such trustees should immediately file such appointment with the district clerk, who should immediately notify the person appointed of his appointment.

**Removal from Office.**— For sufficient reasons the State Superintendent may remove a clerk, collector, or treasurer from office. The proceedings are the same as in the removal of a trustee. (Section 13, title 1 of Consolidated School Law.)

## CLERK

[See Section 34, Article 4, Title 7]

**Duties.**—(1) The clerk should keep a correct record of the proceedings of all district meetings, and record in a book provided for that purpose by the district a copy of all reports of the trustees to the school commissioner.

(2) He should give notice as required by law of all special meetings called by the trustee, and give notice also of the annual meeting. When the office of trustee is vacant, it is the duty of the clerk to call special meetings. He should also give notice of adjourned meetings as required by law.

(3) He should immediately, upon the election or appointment of any district officer, notify such officer of his election or appointment, and should also report the names and addresses of such officers to the town clerk of the town in which the school-house of the district for which such officers are chosen, is located. For a failure to file such notice, a penalty of \$5 may be imposed for each and every such neglect.

(4) He should notify trustees of every resignation filed by the school commissioner.

(5) He is required to preserve all records, books, and papers belonging to his office and to deliver them to his successor in office. For a refusal or neglect to do this he is subject to a fine of \$50 for the benefit of the district, which fine is to be recovered by the trustee.

(6) Whenever a school district is dissolved he should deposit the records, books, and papers of such district in the town clerk's office, as required by the order of the school commissioner.

(7) When required to do so by the board of trustees, he should attend their meetings and keep a record of the proceedings of such meetings in a book provided for that purpose.

(8) He is also required by law to keep all books and papers of the district that are in his posses-

sion open to the inspection at all reasonable hours of any qualified voter in the district, and to permit such voter to make copies of any such papers or records.

## COLLECTOR

[See Section 80, Article 7, Title 7]

**Bond.**— Before receiving a warrant for the collection of taxes, a collector should execute and deliver to the trustees a bond with one or more sureties and in a sum fixed by the district, or when the district fails to fix an amount, in such sum as the trustees shall name. The trustees upon approving such bond should file it with the town clerk of the town in which the district is located.

**\*Duties.**— It is the duty of the collector to collect the taxes included in any tax-list for the district when directed to do so in the warrant of the trustees of the district; if the district has a qualified treasurer, to pay the taxes collected to such treasurer, and if the district has no treasurer, to disburse the money collected, upon the order of the trustee of the district.

The trustees of any district, except a district

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\*The warrant of trustees, return of collector, and all matters pertaining to the collection of taxes is treated fully in the chapter on "School-District Taxes."

within a city or incorporated village, or a district having a treasurer, may direct that the collector of such district shall disburse the school moneys apportioned to the district by the State for the payment of teachers.

After a collector executes a bond to the trustees, with two or more sureties approved by them for double the amount of the sum last apportioned to the district, such collector may receive from the supervisor of the town the moneys in his hands belonging to the district and applicable to the payment of the salaries of teachers. The collector should then disburse such money upon the order of the trustees. The bond should be approved by the trustees and filed in the office of the town clerk.

**Penalty for Neglect of Duty.**— A collector is responsible to the district for any loss it meets through his negligence in failing to collect any tax which might have been collected within the limit prescribed by the warrant. (See section 87, article 7, title 7.)

**Fee.**— A collector is entitled to a fee of one per cent on all moneys voluntarily paid to him within thirty days from the date on which he gives notice that a tax-list has been issued, and on all moneys paid after that time he is entitled



to five per cent. (See section 81 of article 7, title 7.)

## TREASURER

[See Subdivision 5, Section 14, Article 1, Title 7 and Section 35, Article 4, Title 7.]

**Determination of District to Elect Treasurer.—**

The qualified voters of a district may decide by a majority vote at any annual meeting, or at a special meeting called for that purpose, to elect a treasurer of the district. Upon such determination, the district meeting may proceed to elect by ballot a treasurer, who may hold such office until the next annual meeting or until a successor is chosen and has qualified.

**Treasurer's Bond.—** Within ten days after his notice of election, the treasurer should execute and deliver to the trustees of the district a bond in the sum fixed by the annual meeting or such sum as the trustees require, which should be at least double the amount of money such treasurer will receive, with at least two sureties approved by the trustees. When the bond is properly executed and approved by the trustees in writing, it should be filed with the district clerk.

**Duties of Treasurer.—** The treasurer is the custodian of all moneys belonging to the district.

After the treasurer has qualified by executing his bond, the trustees should pay to such treasurer all moneys of the district in their possession derived from any source whatever.

The collector of the district should pay over to the treasurer all moneys collected by him under any tax-list and warrant issued by the trustees.

The treasurer is also authorized to receive and has power to demand and receive from the supervisor of the town in which his school district is located, all money in such supervisor's hands and belonging to such district.

The treasurer is to disburse the money held by him and belonging to the district, upon the order of the trustees of the district.

The treasurer must also report to the trustees, when they require it, the condition of the treasury, and must also make a detailed report at the annual meeting covering all business transacted by him for the district during the year.

#### LIBRARIAN

The subject of librarian is treated fully in the chapter on "School District Libraries."

#### REVIEW QUESTIONS

Who is eligible to the office of district clerk? Collector? Treasurer? What qualification must a treasurer possess that is not required of a clerk or collector? Are women

eligible to these offices? What office are these officers prohibited from holding? What would be the effect if a person holding one of these offices should accept the office of trustee? What is the term of office of each of these officers? What is the term when elected at the first meeting of a new district? When are these officers elected? When in school districts having more than 300 children of school age? How must these officers be elected in either case? Who should notify these officers of their election? What will be considered a notice of election?

What must these officers do if they do not desire to accept? What is the penalty for refusing to serve in either of these offices? What is the penalty for neglecting or refusing to serve in either of those offices without filing a refusal to serve? What is a bar to the recovery of a penalty in either of these cases? What is the result of a failure of the collector or treasurer to execute a bond as required by law? How may a vacancy in the office of district clerk, collector, or treasurer be filled? For how long does a person appointed to fill a vacancy in any of these offices serve? When an appointment is made by a trustee, what should be done with such appointment? How may these officers be removed from office? What is the duty of a district clerk in relation to proceedings of district meetings? In relation to notice of meetings? Notification of election or appointment of officers? Reporting list of officers to school commissioners? What is the penalty for a failure to file such report? Whom should he notify of the resignation of school-district officers? What is his duty in relation to the books, papers, and records of the district? What is the penalty for a failure to do this? What is his duty in relation to the records of dissolved districts? In relation to proceedings of meetings of the board of trustees? In relation to inspection of district records?

What must the collector do before he can enter upon the discharge of his duties? How many sureties must be given to his bond? In what amount? Who should approve such bond? Where should it be filed? What is the collector's duty in relation to taxes? What should a collector do with the money collected? What district may direct that the collector shall disburse the school money received from the State for teachers' wages? When may a collector receive from a supervisor the money due his district? For what is a collector responsible to the district? To what fee is he entitled? How may a district determine to have a treasurer? What bond must a treasurer

give? In what amount? What is done with such bond? What is the general duty of this officer? From what three sources may he receive money for the district? How should he disburse the money of the district? What reports must he make?

## CHAPTER IX

### UNION FREE-SCHOOL DISTRICTS

#### ORGANIZATION

(SEE ARTICLE I, TITLE VIII)

**History.**— The first act providing for union free schools was passed in 1853, and was incorporated into the Consolidated School Act of 1864. The object was to create strong schools by uniting weak ones, and thus bringing more pupils and property to the support of a single school.

**How Formed.**— Union free schools may be organized by a special act of the legislature, as many of them have been, or they may be organized under the provisions of the consolidated school law.

**Call of Meeting to Form District.**— The trustees of any school district should issue a call for a special meeting of the district, to determine upon organizing a union free-school district, when requested to do so by fifteen persons who are qualified voters in such district. This request should be a written statement asking for such meeting, and addressed to the trustees.

**Meeting of Two or More Districts.**—When it is desired to unite two or more districts to form a union free-school district, fifteen qualified voters of each district must sign a request for a meeting; and when the trustees receive such request, they should issue a call for a joint meeting at some convenient place within such districts.

**Notice of Meeting.**—Within ten days after the trustees have received such request, they should give notice of a meeting to be held at some suitable place in the district. The notice should also state on what day and hour the meeting will be held. The date chosen must be not less than twenty nor more than thirty days from the date on which the notice is given. When the trustees refuse or fail to give notice of the meeting the State Superintendent may direct any resident of the district to give such notice.

**Method of Giving Notice.**—In a district whose boundaries correspond in whole or in part to those of an incorporated village in which there is published a daily or weekly newspaper, the notice of such meeting may be given by posting copies of such notice in at least five conspicuous places in the district twenty days previous to the date of the meeting, and by publishing such notice once a week for three successive weeks in

all papers published in such district. Personal service of notice of meeting is not required when notice is published in newspaper.

In any other district notice shall be given by posting copies in five conspicuous places in the district and by a personal service of such notice upon all qualified voters in the district, in the same manner as notice of special meetings in common-school districts is served. (See chapter on "Meetings in common-school districts.")

When two or more school districts are involved in these proceedings, notices must be given in each district. The notices in all cases should state the qualifications of voters at school district meetings.

**Failure to Notify all Voters.** — A failure to notify all voters of this meeting will not render the proceedings illegal unless it can be shown that such failure was willful and fraudulent.

**Expenses of Notices.** — All reasonable expenses for publishing such notices of meetings in newspapers are a charge upon the union free-school district, when it is organized. If such district is *not* organized, these expenses must be paid by the persons who signed the request for such meeting. No compensation is allowed for personal service of notice.

**Procedure of Meeting.** — A meeting duly convened for this purpose shall organize by electing a chairman and a secretary. The next proposition to come before the meeting should be a resolution or motion to form a union free-school district. If the number required by law are present, a vote may be taken on this proposition. The meeting may adjourn from time to time by a majority vote, but not for a longer period than ten days. If the meeting should take affirmative action and vote to organize a union free-school district, the next step would be to elect trustees. The election of trustees is treated fully in chapter on "Officers of union free-school districts."

**Number Required at Meeting.** — If the meeting consists of one district only, fifteen qualified voters must be present to vote on the proposition to organize a union free-school district; and if two or more districts are involved, there must be at least fifteen qualified voters present from each district, and a majority of those present and voting will decide the question.

**Filing of all Papers and Proceedings.** — When affirmative action has been taken by a district on this question, copies of the request for such meeting, and of the call for and notice of such meeting, and of the minutes of the meeting, all duly



certified by the chairman and secretary, must be filed with the town clerk of the town in which the district is located, with the school commissioner having jurisdiction, and with the State Superintendent of Public Instruction.

**Failure to Organize.** — If the resolution to organize a union free-school district should be defeated, no further business can be transacted, except to vote to reconsider the resolution or to adjourn; nor can a meeting to consider such question be called again within one year.

#### ALTERATION AND DISSOLUTION

[SEE ARTICLE 5, TITLE VIII]

**Annexation of Common-School Districts.** — A school commissioner may dissolve one or more common-school districts and annex the territory to a union free-school district, when such districts adjoin and when the boundaries of such union free-school district do not correspond to the boundaries of an incorporated village or a city. Before taking such action, a commissioner must obtain the written consent of the trustees of all districts concerned.

**Alteration of Boundaries by School Commissioner.** — A school commissioner has the authority to alter the boundaries of any union free-school

district whose limits do not correspond to those of an incorporated village or a city, in the same manner that common-school districts are altered. Such district cannot be divided, however, when there is an outstanding bonded indebtedness against it. (See chapter on "School districts.")

**Dissolution of Union Free-School District.** — When a meeting, regularly convened, organizes a union free-school district, such district cannot be dissolved within one year from the first Tuesday in August following the date on which it was organized. (See section 5, article 1, title 8.)

But any union free-school district which has been established for one year or more may be dissolved by a special meeting of the district with the approval of the commissioner. A meeting for this purpose should be called by the board of education when an application therefor is presented to them, signed by at least fifteen resident taxpayers of the district.

**Action of Meeting.** — The vote of a district meeting on this question should be taken by recording the ayes and noes; and to receive favorable action, the proposition to change from a union free-school to a common-school district must receive a two-thirds vote of the legal voters present and voting on the question. Whenever

the question fails to receive a majority vote, no further meeting for a similar purpose can be held within three years from the date of the meeting held at which such vote was taken.

**Approval of Commissioner.** — Whenever a district takes favorable action upon the proposition, it is the duty of the board of education of such district to present to the school commissioner having jurisdiction, certified copies of the call for and notice of such meeting and of the proceedings of the meeting. If the school commissioner approves the action of the district meeting, he should file a certificate to that effect with the board of education. But the change of such district to a common school district can not go into effect until the day preceding the first Tuesday of August next following.

**Disapproval of Commissioner.** — If the school commissioner having jurisdiction, should refuse to approve the action of a meeting in voting to change from a union free-school district to a common-school district, no meeting can be held in such district for a like purpose within three years from the date on which the meeting was held at which such vote was taken.

**Conditional approval of Commissioner.** — A commissioner may make his approval of such

proceedings upon the condition that the district which has been greatly benefited by consolidation in the way of buildings, improvements of site, etc., shall pay an equitable sum to each of the other districts into which the district will be divided.

**Division of Dissolved District.** — The school commissioner having jurisdiction, has the authority to divide the territory of a union free-school district which has been dissolved as described in this chapter into common-school districts, and whenever a union free-school district which was established by the consolidation of two or more districts shall be dissolved, the commissioner may divide such territory into districts to correspond, so far as practicable, to the districts which had been consolidated.

**Transfer of Academies to Former Trustees.** — When a district so dissolved shall contain an academy which was converted under the law into the academic department of the union free school of such district, the board of education must transfer such academy to a majority of the surviving resident former trustees or stockholders, upon their application.

**Disposition of Money on Hand.** — Whenever a union free-school district shall be thus dissolved

and there shall be any money in the hands of the treasurer of such district, such money should be equitably apportioned among the school districts into which the union free-school district has been divided. When the treasurers or collectors of such districts are elected and have qualified, the money should be paid to them.

**Annual Meeting of Districts thus Formed.** — The annual meeting of the districts thus formed from the territory of a dissolved union free-school district shall be held the first Tuesday in August which occurs after such districts have been formed. The electors of the districts thus formed shall elect district officers at such annual meeting in the manner required by law.

**Notification of Commissioner of Education.** — Whenever a meeting of a union free-school district has been duly convened and has voted to dissolve such district, and this action of the meeting has been approved by the school commissioner, copies of the call for and the notice of such meeting, and of its proceedings and their approval by the commissioner, all duly certified by the board of education, should be forwarded to the Commissioner of Education.

**Appeal to Commissioner of Education.** — Any person feeling aggrieved by the action taken in any of the proceedings in such cases, may bring an appeal to the Commissioner of Education, who has power to decide the matter, and his decision is final.

**Divide District.** — A union free-school district containing two or more incorporated villages may be separated into districts under the conditions and as provided by Chapter 125, Laws of 1903.

**Special Powers.** — Union free school districts organized by special acts and having 5,000 inhabitants may employ superintendents, borrow money and designate sites as provided by consolidated school law. Chapter. 427, Laws 1904.

**Consolidation of Union School Districts.** — See section 30, title 8, consolidated school law, as amended by Chapter 258, Laws of 1905.

### REVIEW QUESTIONS

When was the first union free-school law enacted? What was the object? In what two ways may union free-schools be created? How is the propriety of forming a union free-school determined? Who calls the meeting? When? How should this request be made? How should the request be made when two or more districts are to be united? When such request is properly presented to the trustees what should they do? What facts should the notice contain? At what time after the notice has been given must the meeting be held? How may the meeting be called when the trustees refuse to give the required notice?

What is the method of giving notice in a district whose boundaries correspond in whole or in part to those of an incorporated village in which there is published a daily or weekly newspaper? When is a personal service of notice not required? What method of giving notice in all other districts must be pursued? How must notice be given when two or more districts are involved? What should all notices state? What is the effect of a failure to notify all voters? How are the expenses of publishing notices, etc., paid? If the district is not formed, how are they paid? Can compensation be allowed for personal service of notice?

How does the meeting organize? What is the next proposition to come before the meeting? When may a vote be taken on this proposition? How may the meeting adjourn? For what period? If affirmative action is taken on the proposition, what is the next step to be taken? When *one* district is involved how many voters must be present in order that a vote may be taken? How many voters must be present when *two or more* districts are involved? What vote determines the question? When affirmative action is taken what papers must be filed? With what officials? If the proposition to organize is defeated, what further business may be transacted? When may another meeting to consider the matter be called?

When may a school commissioner annex the territory of a common-school district to a union free-school district? What must a commissioner do with such common-school district before annexing its territory? A commissioner may alter the boundaries of what union free-school districts? When can not the boundaries of these districts be *divided*? After a union free-school district has been organized what time must elapse before it can be dissolved? How may a union free-school district which has been established for more than one year be dissolved? How is such special meeting called? When should it be called? How should the vote on this question be taken? What vote is necessary in order to change to a common-school district? When a proposition to change from a union free-school district to a common-school district is defeated, what period of time must elapse before another meeting may be called to consider such proposition? What must be done with all papers in the proceedings when a union free-school district votes for such change? What should the commissioner do if he approves the change? When does the dissolution go into effect? If the commissioner fails to approve such action, when may another meeting for the same purpose be held? When may a commissioner make his approval conditional? What is done with the territory of a union free-school district when such district has been dissolved? When a district is thus dissolved and it had contained an academy which was converted into an academic department of such union free-school district, what must the board of education do with such academy? When a district is thus dissolved and there is any money in the hands of the treasurer of such district, what disposition must be made of such money? To whom should it be paid? When does the annual meeting of the districts formed from such dissolved district occur? What papers relating to such dissolution must be filed with the State Superintendent of Public Instruction? What appeal may be taken in these matters?

## CHAPTER X

### MEETINGS IN UNION FREE-SCHOOL DISTRICTS

[SEE ARTICLE 3 OF TITLE VIII]

#### ANNUAL MEETINGS

**Date.** — The date fixed by law for the annual meeting of a union free-school district whose boundaries *do not* correspond to those of an incorporated village or a city, is the first Tuesday of August.

In a union free-school district whose boundaries *do* coincide with the limits of an incorporated village or a city no annual meeting is held. The election of officers in such districts occurs at the charter election and the usual business of the district is transacted by the board of education.

**Annual Meetings of Boards of Education.** — The annual meeting of a board of education of a union free-school district whose boundaries *do not* correspond to those of an incorporated village or a city, is held on the first Tuesday following the date on which the annual meeting of the district is held.

But the annual meeting of a board of education of a district whose boundaries *correspond* to



those of an incorporated village or a city is held on the first Tuesday following the date on which the annual charter election of such village or city is held.\*

**Notice of Annual District Meeting.**—The board of education should give notice of the annual meeting by publishing the same in two newspapers in the district, weekly for four weeks immediately preceding the date of the annual meeting. If there are not two newspapers published in the district, then such notice should be printed in one paper. If no newspaper is published in such district, then such notice must be posted in at least twenty conspicuous places for at least twenty days before the time of such meeting. (Sec. 10, art. 2, title 8.)

## SPECIAL MEETINGS

A union free-school district whose boundaries do or do not correspond to the boundaries of an incorporated village or a city may hold special meetings. Such meetings must be called by the board of education.

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\* It is necessary to obtain a clear understanding between the law relating to a union free-school district *whose boundaries correspond to those of an incorporated village or a city and the law relating to one whose boundaries do not so correspond.*

**Notice of Special Meeting.** — The notice of all special meetings should be given by the board of education and in the same manner that notice of annual meetings is given. The notice of such meetings may be signed by the president and the clerk of the board, but this must be done under the direction of the board. The notice should state explicitly when and where the meeting will be held and the purpose for which it is called.

**Failure to Notify all Persons Qualified to Vote.** A failure to notify all persons who are qualified to vote at such meetings will not invalidate the proceedings of a meeting unless it can be shown that such failure was willful and fraudulent. (Title 8, sec. 13.)

**Powers of Annual and Special Meetings to Vote Taxes.** — In any union free-school district whose boundaries *do not* correspond to those of an incorporated village or a city, the voters of such district may direct by a majority vote in an annual or a special meeting that a sum of money shall be raised by tax to change, increase, or improve the site of the school-house of the district, or to purchase a new site or to repair the buildings or erect new buildings, or to buy apparatus and fixtures, or to pay the salary of teachers, or

for any other purpose touching upon the welfare of the school. Similar action may be taken at a special meeting regularly convened of a union free-school district whose boundaries do coincide with those of an incorporated village or a city.

**Notice of Tax Proposed for School Buildings.** No vote to raise money by tax to purchase a new site or to change or add to the present site, or to build a new school-house, can be taken at a district meeting unless notice that such proposition will be presented, specifying amount, has been given by the board of education in the same manner as the notice of an annual meeting is given.

**Designation of Site.**—The designation of a site must be by a written resolution describing the land by metes and bounds, and must receive a majority vote of those present and voting. The vote must be taken by recording the ayes and noes. The clerk of the meeting should make this record.

**Vote on Expenditure of Money.**—On all propositions arising at such meetings involving an expenditure of money or authorizing a tax levy, the vote must be by ballot or by taking and recording the ayes and noes.

**Directions as to Installments.**—Such meetings may also direct that the money to be raised by

tax shall be paid in one payment or that it shall be paid by installments.

**Rescinding Vote or Reducing Amount.**—No vote requiring money to be raised can be rescinded nor can the amount voted to be raised be reduced at a subsequent meeting, unless it is an adjourned meeting or a meeting called for such purpose. If it is a meeting called for such purpose, notice must be given in the manner in which all notices for annual and special meetings are given. The notices must state that the proposed reduction or the proposition to rescind the vote authorizing such money to be raised, will be voted upon.

**May Borrow Money and Issue Bonds.**—Whenever an annual or a special meeting of a union free-school district whose boundaries *do not* correspond with those of an incorporated village or a city votes a tax to be collected in installments for the purpose of building a new school-house or for repairing or enlarging the school-house of the district or for the purchase of a new site or an addition to the present site, the trustees or boards of education are authorized by law to borrow the money necessary at a rate not to exceed six per cent., and to issue bonds or other evidences of indebtedness therefor. The bonds

shall be paid at maturity and shall not be sold below par.

In a union free-school district whose boundaries correspond to those of an incorporated village or a city, the corporate authorities of such village or city may take similar action when a special meeting of the district has voted to raise a tax by installments for the purposes hereinbefore specified. (Section 9, title 8.)

**Sale of Such Bonds.** — In a union free-school district whose boundaries *do not* coincide with those of an incorporated village or a city, the board of education of such district shall give notice of the time and place of the sale of such bonds, at least ten days prior to the date of such sale. This notice may be given by being published twice in each of two newspapers of the district, if there are two, and in one paper, if there is but one. If no newspaper is published in the district, then a notice of such sale must be posted in ten of the most conspicuous places of the district, at least ten days previous to the sale. The trustees having charge of the issue or payment of such bonds, are required to make an annual report thereof to the clerk of the board of supervisors of the county in which the district is located, on or before the first day of November.

In a union free-school district whose limits *do coincide* with those of an incorporated village or a city, such bonds must be prepared by the board of education and signed by the president and the secretary of such board and delivered to the treasurer of such incorporated village or city and countersigned by him. The treasurer of such village or city shall give notice of the time and place of the sale of such bonds in the same manner as it is required that boards of education of districts whose limits *do not* coincide with those of an incorporated village or a city shall give such notice. The proceeds of the sale of these bonds must be paid into the treasury of such incorporated village or city to the credit of the board of education of such district.

**Tax for Teachers' Salaries.** — After all moneys apportioned to union free-school districts for teachers' salaries have been applied therefor, the amount necessary to pay the balance of such unpaid salaries, if any, must be raised by tax, and the proper authorities may levy and assess such tax without a vote of the district.

**Union Free-School Districts Recognized as School Districts.** — For the purposes of the apportionment and distribution of school money,

every union free-school district is regarded and considered a school district.

## REVIEW QUESTIONS

What union free-school districts hold an annual meeting? On what date? What union free-school districts do not hold an annual meeting? When does the election of officers occur in these districts? How is the usual business of such districts transacted? How may union free-school districts be classified according to their boundaries? When does the annual meeting of the board of education of each of such districts occur? Who gives notice of the annual meeting of a union free-school district? How must such notice be given? What union free-school districts may hold special meetings? How are such meetings called? Who gives the notice of such meeting? What must the notice state? What is the effect of a failure to notify all qualified voters of such meeting?

How may a district whose boundaries *do not* coincide with those of an incorporated village or a city vote a tax for a site, buildings, apparatus, and other matters for the general welfare of the school? How may a district whose boundaries *do* thus coincide vote a tax for such purposes? For what purpose must a notice to vote taxes be given before such taxes can be voted? How must such notice be given? In what manner may a site be designated? How must the ballot be taken? How must all votes on a proposition involving an expenditure of money be taken? At what meeting can a vote to raise money be rescinded, or the amount to be raised be reduced? If it is at a special meeting, what must the notice of such meeting state?

In what union free-school districts and for what purposes may a board of education borrow money and bond such districts? When may a board of education do this? What is the provision of law relative to the interest on the money borrowed and also the price at which such bond shall be sold? In other union free-school districts what officers may take similar action? When? Describe how notices of the sale of bonds shall be given in union free-school districts whose boundaries *do not* coincide with those of an incorporated village or a city. What reports are trustees required to make in relation to such bonds? How are

such bonds prepared in a district whose boundaries coincide with those of an incorporated city or village? Describe how the sale of such bonds in these districts must be made. What is done with the proceeds of the sale of these bonds? When may a tax be levied and assessed upon a union free-school district for teachers' wages? Is a vote of the district necessary? Who may levy such tax? What is meant by the *proper authorities*? For what purposes are union free-school districts regarded as school districts?



## CHAPTER XI

### UNION FREE-SCHOOL DISTRICT OFFICERS

[SEE SECTIONS 5, 6, AND 7, ART. I, TITLE VIII]

#### TRUSTEES

**Number.**—The number of trustees in each union free-school district cannot be less than three, nor more than nine. The voters of the district at the meeting at which the first election occurs should decide on the number of trustees to be elected.

**Date of Election.**—The election of trustees, after the first election, of a union free-school district *whose boundaries do not coincide with those of an incorporated village or a city*, must occur at the annual meeting of such district, which takes place on the first Tuesday in August in each year, except in districts having over 300 children of school age, when the election may be held as hereinafter stated. (See page 141.)

The election of trustees in a union free-school district *whose boundaries do coincide with those of an incorporated village or a city*, must occur on the date of the annual charter election of such incorporated village or city. The trustees in these

districts should be elected in the same manner as the other officers of such incorporated village or city are elected. The ballots used in such election must be separated from the ballots for the other officers to be chosen at such election and must be endorsed " School Trustees."

**Method of Election.**— These officers must be chosen by ballot. The ballots may be printed or written or partly printed and partly written. Ballot-boxes should be provided for the purpose. Inspectors should be chosen by the meeting, who should receive all the ballots, deposit them in the ballot-boxes, and, after the polls have closed, canvass the votes and announce the result. The candidate receiving a majority of all votes cast is duly elected.

**Classification of Trustees.**— When a union free-school district is organized, the officers chosen at the first election shall be divided into three classes to be known as the first, the second, and the third class. The first class shall hold office for one year from the next annual meeting, if the district is one whose boundaries do not coincide with those of an incorporated village or a city; and if the district is one whose boundaries do so coincide, then such first class shall hold office for one year from the date on which the next annual

charter election of such incorporated village or city occurs. The second and the third class shall likewise hold office for two and three years respectively from these dates, according to the boundaries of the district.

**Term of Office.** — After the expiration of the term of office of trustees elected at the first meeting of a union free-school district newly organized, the term of office of trustees of such district is three years from the date of their election. *A year* in this sense means from the date of one election to the next fixed by law.

**Trustees form a Board of Education.** — The trustees of union free-school districts constitute the boards of education for those districts. The board of education of a district is known and designated as the “Board of Education of district number . . . . . of the town of . . . . .”

**Eligibility of Trustees.** — In order to be eligible to hold the office of trustee, or to become a member of a board of education in a union free-school district, a person must be a citizen of the United States, and a voter of the district in which such person is elected, and must also be able to read and write. Women possessing these qualifications are eligible the same as men. Not more than one member of a family can serve on

a board of education in any district at the same time. (See sec. 8, tit. 8.)

A school commissioner or supervisor is not eligible to be a member of a board of education. Hence, if a member of a board of education should accept either of these offices he would thus vacate his office as such member. (See section 5, article 1, title 8.)

**Vacancies — How Filled, etc.** — Vacancies in boards of education in any union free-school district may occur by death, by resignation, by refusal to serve, by removal from district, or by removal from office. When a vacancy does occur from any of these causes, the board of education should fill such vacancy at once by appointment. If the board of education should fail to fill such vacancy within thirty days from the date on which it occurred and if such vacancy is not filled by special election of the district within that time, the school commissioner having jurisdiction may appoint a qualified person to fill such vacancy. The State Superintendent of Public Instruction has the authority to order a special election to fill a vacancy in a board in any district, and when such special election has been ordered, the vacancy shall not be supplied in any other manner. (See subdivision 12, section 15, article 4, title 8.)

**Removal from Office.** — A board of education has the authority to remove any member of the board for official misconduct. The member charged with such conduct should be furnished with a written copy of specific charges, at least ten days before the date fixed for the hearing. The accused member should also be allowed a fair and impartial opportunity to refute the charges preferred against him.

A member of a board of education may also be removed by the State Superintendent of Public Instruction for sufficient cause.

In this procedure also, the accused member must receive notice of the charges standing against him and must have a fair chance to refute or disprove them. A willful failure to perform any duty required of him by the Superintendent, or a lack of proper diligence in obeying an order of the Superintendent, or any other willful violation or neglect of duty is sufficient cause for removal from office by the Superintendent. (See sections 15 and 29, article 4, title 8.)

**Boards Bodies Corporate.** — All boards of education are corporate bodies, and all school districts municipal corporations.

**Boards Select Their President.** — At the first meeting of a board of education and at each

annual meeting thereafter, such board shall elect one of their number president.

**Appointment of Clerk of the Board.**—The board of education of a district whose boundaries do not coincide with those of an incorporated village or a city may appoint one of their number, or some other qualified voter of the district, clerk of the board of education. A teacher employed in the district is also eligible to the office of clerk. The clerk must perform the clerical work of the district and of the board, and is entitled to the compensation fixed by the district meeting. If the district meeting fails to fix the compensation of the clerk, the board of education should fix it.

If a vacancy occurs in the office of clerk, such vacancy may be supplied by appointment by the board of education.

In a union free-school district whose boundaries coincide with those of an incorporated village or a city, the clerk of such village or city usually acts as clerk of the board of education.

**Appointment of Treasurer and Collector.**—The board of education of a union free-school district whose boundaries do not correspond to those of an incorporated village or a city, has authority to appoint one taxable inhabitant of the district as treasurer and another as collector. These officers

hold their appointments subject to the pleasure of the board. The treasurer is to hold and disburse upon the orders of the board the moneys of the district. The collector should collect the taxes on all tax-lists placed in his hands for that purpose and pay over such money to the treasurer.

(In a district whose boundaries do coincide with those of an incorporated village or a city, the treasurer and the collector of such village or city act as the treasurer and the collector of such district.)

**Bonds of Treasurer and Collector.**— The treasurer and the collector shall each within ten days after written notice of their appointment, and before entering upon the discharge of their duties, execute and deliver to the board of education in the amount which they may require, a bond with proper penalties and sureties for the faithful discharge of their duties.

**Failure to Execute Bonds.**— If either the treasurer or the collector should fail to execute the required bond within the specified time, the office becomes vacant and the board should fill it by appointing another person.

**Librarian.**— Boards of education have authority to appoint from time to time such librarians as in their judgment are necessary to take proper

care of the libraries of the district. (See subdivision 10, section 15, article 4, title 8.)

**Who May Vote for Officers in Union Free-School Districts.**— Where no provision is made by special enactment, the general law defines the qualifications of voters at union free-school district meetings. (See chapter on "Qualifications of voters.") Persons coming within these provisions may vote for officers at elections in these districts.

The right of *women* to vote for the election of officers in a union free-school district whose boundaries coincide with those of an incorporated village or a city, is frequently claimed. The charters of cities or villages, or the special school acts governing the schools therein, in some cases contain a provision defining who may vote for members of the board of education. In such cases this special provision governs instead of the general law, and by it women might be debarred from voting. A provision that persons entitled to vote for members of assembly in such cities or villages would be qualified to vote for school officers, would exclude women; but in the absence of any such special provision women, as well as men, may vote for school officers, if they possess the requisite qualifications.



ELECTION OF OFFICERS IN DISTRICTS HAVING  
MORE THAN 300 CHILDREN.

(SEE SECTION 14, ARTICLE 3, TITLE 8)

**Action of District.**—In a union free-school district having *more* than 300 children of school age, which fact must be shown by the last annual report of the board of education to the school commissioner, a majority of the qualified voters at any annual meeting or at a special meeting called for that purpose, may decide that the *election of trustees* shall be held on the Wednesday next following the date fixed by law for holding the annual meeting of such district. Until such decision of the district shall be changed, the time for holding the election of officers of such district shall occur on such Wednesday, between the hours of twelve o'clock noon and four o'clock P. M., and the trustees may by a resolution extend the time of such election until sunset.

**When Notice is Required.**—When the holding of such election is to be at some place other than the public school-house, the trustees shall give notice of the place at which the election is to be held, at least one week before the time for holding such election. This notice must be given by

publishing the same in some newspaper of the district or by posting it in three conspicuous places in the district.

The election of members of the board of education in these districts must not be confounded with the annual meeting. The annual meeting of such districts must occur on the first Tuesday in August in each year, as required by law. All the business of the district to be transacted at the meeting of such district must be transacted at the annual meeting. *The election of members of the board of education only, must occur on the Wednesday following the annual meeting and no other business can be transacted at that time.*

**Inspectors of Election.**—The board of education shall act as inspectors of election. If a majority of the members of the board should not be present at the time the polls should open, those members present may appoint any of the legal voters of the district who are present to act as inspectors in the absence of the members of the board. If none of the members of the board are present at the time the polls should open, the legal voters present may choose three of their own number to act as inspectors.

**Record of Voters.**—The clerk of the board of education is required by law to keep a record in a

book provided for that purpose of the names of all voters who deposit their ballots at such elections.

**Refusal to Keep Record.**— Any such clerk who shall refuse to keep such record or who shall neglect to perform his duties in this respect shall forfeit a sum of twenty-five dollars, to be sued for by the supervisor of the town.

**Challenge of Voters.**— Any qualified voter at such elections may challenge the right of any person to vote who he has reason to think is not entitled to vote at such election. Any person thus challenged must make the following declaration before his ballot can be accepted: " I do declare and affirm that I am and have been for thirty days last past an actual resident of this school district and that I am legally qualified to vote at this election."

Upon a challenged party's making such declaration, the inspectors of election must accept his ballot.

**Penalty for Illegal Voting.**— Any person, who, being challenged, shall willfully make a false declaration of his right to vote, is guilty of a misdemeanor. Any person not legally qualified who shall vote at such election or district meeting, without being challenged, shall forfeit the

sum of ten dollars, to be sued for by the supervisor of the town for the benefit of the school or schools of the district.

**Ballot-Boxes.**— The board of education should provide at the expense of the district suitable ballot-boxes, in which the ballots of voters shall be deposited.

**Ballots.**— These officers must be elected by ballot. The ballots used must be either printed or written, or partly printed and partly written.

**Canvass of Votes.**— The inspectors shall count the votes cast, after the polls have closed. If the number of ballots exceeds the number of names on the poll-list kept by the clerk, the inspectors shall withdraw ballots enough to make them correspond. The inspectors shall then count the votes and announce the number cast for each candidate. Those receiving a majority of the votes cast, are elected to the various offices for which they received votes. The clerk should make a record of the result announced by the inspectors.

**Special Election.**— Whenever the time passes on which an election should be held, without the election's taking place, the board of education may call a special meeting for such election. If the board fails to call such election within twenty

days after such time has passed, the school commissioner having jurisdiction, or the Commissioner of Education, may order any inhabitant of the district to give notice of a special meeting for such election. This notice must be given by being published in two newspapers of the district once each week for four weeks, and if two newspapers are not published in the district, but one is, the notice may be published in such paper. If no paper is published in the district, then such notice must be posted in at least twenty of the most public places in the district at least twenty days prior to the date on which the meeting is to be held.

**Terms of Officers Chosen at Special Election.** — The officers chosen at a special election shall serve until the date of the next annual meeting, and until their successors have been elected and have qualified.

**Settlement of Election Disputes.** — All disputes relating to the regularity of these elections and to any acts of the inspectors or clerk should be referred to the Commissioner of Education for settlement. His decision in such matters is final.

**Limitation of These Provisions.** — These provisions do not apply to union free-school districts in cities, nor to any union free-school district whose boundaries coincide with those of an incorporated village. Nor can such provisions apply to any union free-school district organized by a special act in which the time and method of electing officers in such district shall be fixed by a special provision which differs from the general law. Nor do these provisions apply to any of the union free-school districts of the counties of Suffolk, Chenango, Warren, Erie, and St. Lawrence. The election of officers in any union free-school district of any of these counties, whose boundaries do not coincide with those of an incorporated village or a city, must be held on the first Tuesday in August, the date of the annual meeting.

**Changing Number of Trustees.** — If fifteen resident taxpayers of a union free-school district whose limits correspond to those of an incorporated village or city petition their board of education for a special meeting to decide to change the number of members of such board such special meeting must be called at least 30 days prior to the annual charter election. If the proposition to increase the number of members is adopted, such additional members shall be elected at the next annual election. If the proposition to decrease the number should be adopted no member shall thereafter be elected until the number of members is less than the number determined upon at such special meeting. (Chapter 489, Laws of 1903.)

### REVIEW QUESTIONS

How many trustees in a union free-school district? How is the number determined? When does the election of trustees in union free-school districts whose boundaries *do not coincide* with the boundaries of an incorporated village or a city occur? When in districts whose boundaries *do* thus coincide? In the latter case how are such trustees elected? What is the requirement relative to ballots? In all cases how must trustees be chosen? What kind of ballots must be used? How are inspectors chosen at such election? What are their duties? How should the first trustees of a union free-school district be classified? For what period does each class hold office? What is the regular term of office? What is *one year* in this meaning?

What constitutes a board of education? How is a board of education named? Who are eligible to membership on a board of education? Are women eligible? When? How many members of a family may serve on the same board?

Is a school commissioner eligible? A supervisor? If a member of a board of education should accept either of these offices, what would be the result? How may vacancies on a board occur? When a vacancy does occur how should it be filled? Who may order a special election to fill such vacancy? If it is not filled by the board of education within twenty days and if a special meeting is not called within that time, how may such vacancy be filled?

For what reasons may a board remove any of its members? What are the proceedings in such cases? What privileges should be allowed the accused member? By what other authority may a member of a board be removed? What are considered sufficient causes for removal? What are the proceedings in such cases? How is the president of a board of education chosen? When?

How is a clerk chosen? What are the qualifications of a clerk? What are a clerk's duties? Who determines the compensation of a clerk? Who is clerk of the board of education of a union free-school district whose boundaries coincide with those of an incorporated village or a city?

How is a treasurer chosen in a district whose boundaries coincide with those of an incorporated village or a city? A collector? Who are eligible to these offices? For what period are they appointed? What is the duty of the treasurer? Of the collector? What bond must each of these officers give? Within what period? For what amount? What is the effect if these bonds are not given? How are such vacancies filled? What is the duty of a board in relation to librarians?

Who are entitled to vote for officers in union free-school districts? In what cases may *women* vote for these officers? In what cases are they not entitled to vote?

What union free-school districts may elect officers on the Wednesday following the annual meeting? When? Between what hours must such election occur? Until what time may the election be extended? Where is such election held? When may it be held elsewhere? What notice must be given of such change of place? What business only, can be transacted at such election? When must the *annual meeting* of such district be held?

Who act as inspectors at such election? If a majority of the board are not present at the opening of the polls, how are such vacancies filled? If none of the members of the board are present, how are inspectors chosen?

What poll-list should be kept? By whom? What is the penalty for refusal to serve in this capacity?

Who may offer a challenge at such election? What affirmation must the challenged person make? Upon his making such affirmation what must the inspectors do? What is the penalty for making a false declaration? What is the penalty for illegal voting when not challenged? How is such fine collected? For what purpose should it be used?

By whom should ballot-boxes be supplied? How must officers be elected at these elections? What kind of ballots may be used? Describe how the votes cast should be counted?

When should a board of education call a meeting for a special election? When may a school commissioner order such election? The State Superintendent? What notice must be given of such election? For what period are the officers elected at such special meeting chosen? How are all disputes relating to such elections settled? To what districts do not these provisions for election of officers apply?



## CHAPTER XII

### BOARD OF EDUCATION — POWERS AND DUTIES

(SEE ARTICLE 4, TITLE VIII)

**Adopt By-Laws for Its Government.**— A board of education has authority under the law to adopt such by-laws and rules for its government as it shall deem necessary to discharge properly the duties imposed upon it by law.

**Adopt Regulations for Schools.**— A board has authority also to adopt such rules and regulations as it shall deem wise and necessary for the promotion of the educational interests of the district, for the preservation of order and discipline in the schools, and for the protection of the district's property.

While a board has authority to adopt general rules to govern a school and to aid in the discipline thereof, such authority must not be construed as giving the board absolute power to control the discipline and order of the school. General rules may be adopted by the board, but the teacher is the authority to execute such rules, and may determine a mode of punishment not in conflict with the rules of the board.

A teacher has authority also to establish such rules for the preservation of order as are not in conflict with the rules adopted by the board.

**Courses of Study.**—It is the duty of boards of education to arrange courses of study for the schools under their jurisdiction, to determine in what manner pupils shall be graded or classified, and to determine the basis upon which pupils shall be promoted from grade to grade, or from one department to another department. (See chapter 25, “Methods of instruction and program of work.”)

By special provision of law, boards of education are required to provide for instruction in physiology and hygiene, with special reference to the effects of alcoholic stimulants and narcotics upon the human system.

**Prescribe Text-Books.**—They are to prescribe the text-books to be used in the schools under their charge, and to require a uniformity in the use of such books. They shall also furnish text-books to poor pupils out of any moneys provided for that purpose, and free text-books for all pupils when funds have been voted therefor.

**Purchase Sites.**—When directed to do so by a district meeting, boards of education should purchase a site or sites or an addition to a site or sites for school-houses.

**Erect and Repair Buildings.** — They should construct a school-house or school-houses when directed to do so by a district meeting, and should keep the school buildings in good repair.

**Purchase Furniture, Apparatus, etc.** — A board of education has the authority to purchase all necessary furniture, apparatus, fuel, and other necessaries, and to keep the furniture and apparatus in good repair.

**May Hire School Rooms and Furnish Them.** — When the rooms in a school-house are overcrowded and the capacity of a school-house is insufficient to accommodate all the pupils, or when the school-house has been injured or destroyed in any way so as to render it unfit for use, the board of education may hire suitable rooms in which to conduct the school, and may fit up and furnish such rooms in a suitable manner, for the purpose of conducting school therein.

**Insure School Property.** — The board should insure all school buildings and appendages thereof owned by the district, the furniture and apparatus, and the library, in a company created under the laws of the State or authorized to do business in the State. The board has power to raise the premiums by tax upon the district.

**Custody of Property.**— The custody and possession of all public school buildings, sites, lots, furniture, books, apparatus and *all* school property, and the title to the same are vested, in union free-school districts, in the board of education in each of such districts. For any and all purposes this property is exempt from taxation.

**May Sell Property and Exchange Real Estate.**— When a board of education is so authorized by the qualified voters of any district, it may sell at such price and upon such terms as directed, any former lot or site and any real estate the title of which is vested in the board, and any buildings or appurtenances thereon. The board has authority also to convey any such property by deed and to execute the same, which may be done by a majority of the members of the board. Any money realized from the sale of such property must be applied by the board as directed in a resolution by the voters of the district.

The board may also, when so directed, exchange any real estate belonging to the district for the purpose of improving or changing the school-house site.

**May Hold Real Estate in Trust.**— A board of education may take and hold any real estate for the use of the schools or any department of the

schools of their district, transmitted to the district by gift, grant, bequest or devise; or any gift, legacy, or annuity given or bequeathed to said board. Such board must apply the same, or the interest or proceeds thereof, as directed by the donor or testator.

**Control of Schools.**—Boards of education of union free schools have in all respects the superintendence, management, and control of such schools. In such control and management a board must be governed by the statute, and by the general power given the State Superintendent.

**Establishment of Academic Department.**—The power to establish an academic department is vested in the board of education. This may be established whenever the board deems it necessary.

**Admission of Non-Resident Pupils to Academic or Other Departments.**—The admission of non-resident pupils to the academic or other departments shall be under the regulations adopted by the board of education, and the fee to be charged such students for this privilege shall also be regulated by the board. Whenever the parent or the guardian of non-resident pupils shall be taxed for school purposes, because of property owned by

either of them and assessed in the district at which such non-resident pupils attend school, the amount of tax thus paid must be deducted from the tuition fee to be paid.

**Employment of Teachers.**— It is the duty of a board to employ all teachers required for the schools under their jurisdiction and the departments thereof. Such teachers must be legally qualified, as required by law. No teacher who is related by blood or marriage to any member of a board can be employed as teacher by such board, except upon the written consent of two-thirds of the members of the board, and the fact of such consent must be entered on the proceedings of the board.

It is the duty of each board at the time of employment to deliver or cause to be delivered to each teacher, a written contract, signed by the members of the board or by some person duly authorized to represent the board. This contract should express the terms of agreement between the board and the teacher, and should be explicit as to the amount of compensation, term of employment, the times when salary shall be paid, and the grade of teaching or department in which the teacher is to be employed. The salary must be paid under the law as often as at the end of

each calendar month of the term of employment. Boards are also directed to pay the wages of teachers out of money appropriated for that purpose.

**Removal of Teachers.**— A board of education cannot remove a teacher during his or her term of employment except for “ neglect of duty, incapacity to teach, immoral conduct, or other sufficient cause.”

**May Fill Vacancies in Board — May Remove Members.**— The board of education may fill any vacancy which may arise on such board. A board may also remove any of its members for official misconduct. But first, the board must serve on the member thus charged, a copy of the written charges, which must be specific; and this copy must be served on such member at least ten days before the date fixed for the hearing. The accused must also be allowed a full and fair opportunity to refute the charges thus made.

**Water-closets, Stairways, etc.**— It is the duty of a board of education to provide two suitable and convenient water-closets for each of the schools under their charge, as required by law, and the board must keep them in a clean and wholesome condition. Any tax involved for this purpose may be levied and assessed upon the

district without a vote at a district meeting. (See chapter on "Sites and school buildings," p. 183.)

The board shall also cause to be erected and maintained on the outside of all school buildings which are more than two stories high, proper stairways with doorways leading thereto from each floor above the first, for use in case of fire. The tax for this purpose may likewise be levied by the board without a vote of the district.

**General Powers and Duties.**—By provision of law, boards of education possess all the powers and privileges and are subject to the same duties in relation to common schools or common-school departments in any union free school in said district which are possessed by the trustees of common schools or to which such trustees are subject under the school law and which are not inconsistent with the provisions of law governing union free schools. When an academic department has been established by a board, the board possesses the same powers that are held by the trustees of academies.

**Board May Appoint Superintendent of Schools.**—In an incorporated village or in any union free-school district which has a population of five thousand or more, the board of education may appoint a superintendent of schools. The



population of such district or village shall be ascertained by an enumeration of the inhabitants therein; the expense of such enumeration shall be a charge upon the district. Such superintendent shall be under the direction of the board of education and the board shall prescribe his duties and fix his compensation. He may be removed from office by a majority vote of the board.

A district thus employing a superintendent is entitled to receive from the State, in its apportionment of the State school moneys, the additional sum of eight hundred dollars.

**Record of Proceedings.**—Boards are required to keep an accurate record of all of their proceedings in books provided for that purpose, and these records must be open to the inspection of qualified voters of the district at all reasonable hours.

**Must Publish Statement of Receipts and Disbursements.**—Boards of education are required by law to publish each year at least twenty days immediately preceding the annual meeting of the district a full and complete detailed account of all moneys received by the board or by the treasurer and of each item of purchase or expense and the amount thereof. This may be published in a newspaper; but if no newspaper is published in

the district, the statement must be posted in at least five public places in the district.

**Board Should Report Estimated Expenses.**—The board should report to the annual meeting an estimate in writing of the money needed for school purposes for the ensuing year. This report should state the purposes for which the money will be needed and the amount for each of such purposes. Such statement could also be presented at a special meeting called for that purpose.

**Vote on Taxes for Such Estimate.**—In a union free-school district whose boundaries do not coincide with those of an incorporated village or a city, the annual or special meeting, upon receiving such estimate, should vote upon levying taxes to meet such estimated expenditures. If demanded by any voter, a separate vote should be taken upon each item. The meeting may increase the amount for any item and may decrease the amount for any item, except for teachers' wages and contingent expenses.

**Board May Levy Tax Without Vote.**—If a meeting should neglect or refuse to vote the estimated amount for teachers' salaries, the board, after applying all available funds therefor, may levy a tax upon the district for the balance of the

money needed, without a vote of the district to authorize it. The same action may be taken by the board on the amount estimated for contingent expenses.

**Settlement of Disputes on Contingent Expenses.**— All disputes that may arise as to what contingent expenses are, should be referred to the State Superintendent, and his decision shall be final.

**City or Village Authorities May Levy Tax.**— Boards of education in union free-school districts whose boundaries coincide with those of an incorporated village or a city, should prepare a written statement, addressed to the corporate authorities of such village or city, showing the amount of money necessary for teachers' wages and for the ordinary contingent expenses of the district. The statement should be specific, showing the several items and the amount of money therefor for which it is proposed to make an expenditure. The corporate authorities, upon the receipt of such statement, should levy a tax upon the real and personal property of their village or city, in the same manner that taxes are levied for the expenses of the municipal government, and for the same amount that the board of education claimed in their statement would be necessary for school purposes. Such corporate

authorities have no discretion in the matter whatever, but are required to levy such tax.

Whenever the voters of such union free-school districts shall have decided at a special meeting, duly convened, to expend any amount for a new site, in addition to the present site, or for the erection of school buildings, or for apparatus or fixtures, or for any other purpose for the welfare of the school system of such district, the said corporate authorities must also raise such amount by tax in the same manner as for any other corporate purpose. (Section 9, article 2, title 8.)

**Regular Meeting.**— Boards of education are required by law to hold regular meetings at least once each quarter, and they may hold them oftener.

The meetings of a board shall be public and any legal voter of the district may be present. Boards may, however, hold executive sessions, and at such sessions only members of the board or those invited by the board shall be present.

**Visitation of Schools.**— Boards shall appoint from their members visiting committees, whose duties shall be to visit the schools and departments under their supervision at least twice each quarter and to present a report to the board at its

next regular meeting after any such visits have been made.

**Application of School Moneys.**—Boards of education must use all moneys received for *common schools*, for the support of schools below the academic department. Such moneys cannot lawfully be used for the support of an academic department. The money received from the literature fund or from any other source for an academic department must be applied to the support of such department, and cannot legally be used for the support of any other department.

**Money to be Held by City or Village Treasurer.**—All moneys raised for the support of union free schools in any city or incorporated village, or apportioned to such districts from the income of the literature, the common-school, or the United States deposit funds, or from any other source, must be paid into the treasury of such city or district. This fund must be kept by the treasurer separate from all other funds in his possession. The treasurer is also required to give such additional security for the safe keeping of this money as the corporate authorities may require.

**How Money Shall be Disbursed.**—Before any of such money shall be disbursed the board of

education must pass a resolution directing what amount shall be expended and the purpose or purposes for which it shall be used. Upon such resolution of the board, drafts shall be drawn by the president and countersigned by the secretary or clerk. These drafts should show the purposes for which the money is expended.

**Moneys to be Held by Treasurer of Board.**— All moneys raised in a union free-school district whose boundaries do not coincide with those of an incorporated village or a city, and all moneys apportioned to such districts from any fund or source shall be paid to the treasurer of the board of education.

**Disbursement of Such Moneys.**— Moneys in these districts shall be disbursed in the same manner as they are by treasurers of incorporated villages or cities.

**Supervision of State Superintendent.**— The State Superintendent of Public Instruction has general supervision of each and every union free school and all their departments. He also has general supervision of boards of education and their management of the school system.

**Boards to Make Reports.**— On the first day of August of each year every board of education must file with the town clerk of the town in

which the school-house of its district is located, a report to the school commissioner having jurisdiction, for the school year ending July 31st preceding. The report should include all information required by law and all that the State Superintendent of Public Instruction shall require. Boards of education must also, upon the request of the State Superintendent of Public Instruction, make a special report to him on any designated subject relating to the condition of their school or schools.

**Authority of Regents Over Academic Departments.** — The Regents of the University of the State of New York are authorized to visit any academic department organized in a union free-school district. The Regents employ inspectors for this purpose. All matters pertaining to the course of study in such academic departments shall be subject to the regulations adopted by the Regents. The qualifications for entrance to such department must be as high as those established by the Regents for participation in the literature fund. The Regents have no authority over the buildings in which an academic department is conducted.

**Board of Education May Adopt an Academy as an Academic Department.**—If an academy exists in a district organized as a union free-

school district, the board of education, if directed by a vote of the district to do so, may adopt such academy as the academic department of the union free-school district. Consent to such transaction must, of course, be obtained from the trustees of such academy. The trustees of such academy, when they have given such consent, should pass a resolution declaring their office as trustees vacant. A certificate to the effect that such resolution was adopted should be signed by the officers of the board of trustees of such academy and filed in the office of the clerk of the county in which such academy is located. After these various steps have been taken such academy becomes the academic department of such union free school.

**Board May Lease an Academy.** — Whenever a board is directed to do so by the voters of a district it may *lease* an academy and site in such district and conduct the academic department of the school district in such building.

**Expenses of Representatives of Boards of Education To Attend Educational Meetings Is Not a Proper Public Charge.** — In July, 1899, the clerk and two members of the board of education of the city of Syracuse attended the annual meeting of the National Educational Association at Los Angeles, Cal. These representatives attended under direction from the board of education. Their legitimate expenses in attending this meeting were audited by the board of education. An action was brought by a tax-payer of the city of Syracuse to restrain the board of education from paying these expenses. The supreme court held that such expenses were not a proper public charge.



An appeal was taken from the action of the court to the appellate division. This court for the fourth department affirmed the action of the supreme court. There is no doubt but that the ruling of the court in this matter applies to the powers of each board of education in the State. (52 App. Div. 579.)

**Issue Certificate of Indebtedness.** — When taxes have been levied by a district, but not collected, the board of education of a district may borrow money to an amount not to exceed the amount of such uncollected taxes for the purposes of meeting the expenses of the current fiscal year. This money may be borrowed by issuing certificates of indebtedness which must be signed by the president and clerk of the board. Such certificates must be payable within the current fiscal year or within nine months thereafter. They shall bear a rate of interest not to exceed six per cent. (Chapter 233, Laws of 1903.)

## REVIEW QUESTIONS

How are rules for the government of a board of education adopted? What regulations may a board adopt for schools? Explain the relation of a teacher to such regulations?

Who is the proper authority to adopt courses of study for union free schools? Who determines how pupils shall be graded, classified, and promoted? In what subject are boards of education required by special provision of law to provide for instruction? What authority has a board of education in determining the text-books to be used in their school? When may a board provide text-books for pupils?

When may a board purchase a site? Erect buildings?

Repair buildings? Purchase furniture or apparatus? Hire school-rooms and furnish them? What is the duty of a board in relation to insuring property? How may premiums for such insurance be raised? Who is the custodian of the property owned by a union free-school district? What does such property include? Is such property subject to taxation?

When may a board sell real property of the district? How is title to such property transferred? What disposition must be made of the money thus realized? When may a board exchange real estate? What power has a board relative to holding property in trust?

What general control of schools under its jurisdiction has a board of education? By what authority is the control of a board limited? Who determines the conditions under which non-resident pupils are admitted? What is the law relative to tuition of such pupils in cases where their parents or guardians are taxed for school purposes? By whom are teachers employed? What prohibition is there relative to the teachers that a board may employ? What is the law relative to the contract between teachers and board? What should such contract express? For what causes may a board remove a teacher? What power has a board of education to fill a vacancy on such board? What power has a board to remove any of its members? What is the duty of a board in providing water-closets and in keeping them in proper condition? What in relation to outside stairways? What general powers of trustees of common-school districts are conferred upon boards of education? What powers of trustees of academies?

When may a board of education appoint a superintendent of schools? How is the population of such district determined? By whom are the duties of such superintendent prescribed? How may he be removed from office? What amount is such district entitled to receive from the State for employing such superintendent?

What records are boards required to keep? Who may inspect such records? State fully what is required of boards relative to publishing receipts and disbursements. What estimates are boards required to present to annual meetings? What action should be taken upon such estimate at a district meeting? What estimates may be reduced? What estimates cannot be reduced? What estimates may be increased? If a district meeting should refuse to vote a tax for teachers' salaries, what action may a board take? What in case of contingent expenses? How may disputes relative to contingent expenses be settled? When should a board of education present an estimate to the corporate authorities of a city or village? For what should such estimate be made? What is the duty of such corporate authorities when such estimate is properly presented to them? What is the duty of such corporate authorities when the district has voted an expenditure for sites or buildings?

What meetings must boards of education hold? How often? Must these meetings be public? What are executive meetings? What provision should a board make for visitation of schools?

What use must be made by a board of the money apportioned for common-schools? How must the money received from the literature fund or for an academic department be used? Who holds the school funds in a union free-school district whose boundaries coincide with those of an incorporated village or a city? How must the funds of such district be kept? What additional security must such treasurer give? How are the funds of such district disbursed? Who holds the funds of a union free-school district whose boundaries do not coincide with those of an incorporated village or a city? How are such funds disbursed?

What supervision has the State Superintendent over union free schools? Over boards of education? What

reports are boards of education required to make? When? To whom? Where should such report be filed? What information should it contain? What authority has the board of regents over academic departments of union free schools?

When may an academy be adopted as the academic department of a union free school? State fully what steps should be taken in proceedings of this kind. When may a board lease an academy and its site?

## CHAPTER XIII

### VOTERS AT SCHOOL DISTRICT MEETINGS — QUALIFICATIONS, CHALLENGES, ETC.

[SEE SECTIONS 11 AND 12, ART. I, TITLE VII]

**Note.** — The qualifications of voters in union free-school districts are the same as those of voters in common-school districts. No distinction is made by law between the qualifications of voters in these two classes of districts or in the penalty for illegal voting. By the provisions of this section of the Consolidated School Law, there are four classes of persons entitled to vote at school district meetings in this State. These classes are clearly defined in a circular letter issued by the State Superintendent of Public Instruction, as follows:

**WHO ARE VOTERS.** — Four classes of persons are entitled to vote at school district meetings. All voters must have the following general qualifications:

#### *General Qualifications.*

1. A citizen of the United States.
2. Twenty-one years of age at least.
3. A resident within the district for a period of at least thirty days next preceding the meeting at which he or she offers to vote.

Any person who possesses the above general qualifications and any one of the four following special qualifications is entitled to vote.

*Special Qualifications.*

1. One who owns or hires, or is in the possession under a contract of purchase of real property in such district liable to taxation for school purposes.

2. One who is the parent of a child of school age, provided such child shall have attended the district school in the district in which the meeting is held for a period of at least eight weeks within the school year preceding such school meeting.

3. One who, not being the parent, has permanently residing with him or her a child of school age who shall have attended the district school for a period of at least eight weeks within the school year preceding such meeting.

4. One who owns any personal property assessed on the last preceding assessment roll of the town exceeding fifty dollars in value, exclusive of such as is exempt from execution.

Women possessing any of the above qualifications are entitled to vote.

Both parents are entitled to vote when they have a child or children who attended school eight weeks during the preceding school year in that district.

But one such person, however, can vote where the right to vote depends upon their having children not their own residing with them, and that person must be the head of the family.

**Residence.** — A person to become "a resident" of a school district must actually reside in such district for a period of at least thirty days immediately preceding any annual or special meeting held in such district.

**Challenge of Voter.** — No person can take part in the transaction of any business of a district meeting who is not a legal voter at such meeting. The right of any person to vote at a school dis-

district meeting cannot be questioned or challenged by any person except a duly qualified voter. When a person offering to vote at a district meeting is challenged by a qualified voter, the chairman of such meeting should require the person thus challenged to make the following declaration: "I do declare and affirm that I am and have been for the thirty days last past an actual resident of this school district and that I am qualified to vote at this meeting." Any person who shall make such declaration is entitled to vote upon all propositions which arise at such meeting. A person thus challenged who refuses to make such declaration should not be permitted to vote upon any question before the meeting. Neither the district meeting nor the officers of such meeting have authority to pass upon the qualifications of any voter. Even if the officers of such meeting *know* the declaration made by a person challenged to be false, they cannot refuse to accept his vote. The proper course to pursue is to accept such vote, and proceed against the offender as the law provides.

**Penalty for Illegal Voting.** — A person who has been challenged at any school district meeting and who willfully makes a false declaration of his or her right to vote at such meeting, is guilty of

a misdemeanor which is punishable by fine or imprisonment or both.

A person voting at any school district meeting who has not been challenged and who is not a qualified voter at such meeting, forfeits the sum of five dollars, which should be sued for by the supervisor of the town for the benefit of the school district.

A person thus voting at an election held on Wednesday following the annual meeting in a district having 300 children or more of school age likewise forfeits *ten* dollars.

Under section 41k of the Penal Code any person not qualified who knowingly votes or offers to vote, or who makes a false declaration when challenged at any school district meeting is guilty of a misdemeanor.

**Decisions of State Superintendents.** — The State Superintendents of Public Instruction have established the following rulings, which govern questions at the present time involving these points of law:

1. An alien is not a legal voter at a school district meeting, although he may reside in the school district, own lands in the district, or have children of school age residing with him who attend school in the district.

2. The proceedings of a school district carried



by illegal votes will be set aside on appeal to the State Superintendent.

3. When the illegal votes cast at a school-district meeting would not change the result of any of the proceedings of such district meeting, the proceedings will not be set aside.

4. The chairman of a school district meeting is entitled to vote upon all questions coming before the meeting for determination.

5. The chairman of a school district meeting is not entitled to cast the deciding vote in case of a tie, if he has already voted on the question.

6. A man is not entitled to vote on account of the qualifications of his wife, nor is a woman entitled to vote upon the qualifications of her husband.

7. The law does not declare the *amount* of real estate which a person must own or rent to entitle such person to vote at a school district meeting.

8. The residence of a person must be *bona fide* to entitle such person to vote at a district meeting.

9. *Prima facie*, the place where a person lives is deemed his residence.

10. Where a person removes from one place to another with an *intention of making the latter his permanent residence*, that place immediately becomes his residence.

11. No person can vote upon *any* proposition

before a district meeting who is not a qualified voter.

### REVIEW QUESTIONS

Is there a difference between the qualifications of voters in common-school districts and those of the voters in union free-school districts? Is there in the penalty for illegal voting? Into how many classes may the voters of school district meetings be arranged? What are the qualifications of the first class? Second class? Third class? Fourth class? Can a person vote at a school district meeting if such person is not a resident of the district for which the meeting is held? State each of the four qualifications which a voter must possess? Can women possessing any of the four qualifications vote? Which of these four qualifications apply to married people? Which to single people? Who may vote on the qualifications of the second class, father or mother? Explain who are entitled to vote on the qualifications of the third class? What is a "residence"?

Who may challenge the right of a person to vote at a district meeting? What declaration must a person challenged make? What is the effect of a challenged person's making such declaration? A refusal to make such declaration? Can the officers of a district meeting pass upon the qualifications of a voter? Even if the officers *know* that a false declaration has been made, can they refuse to accept the vote of the person who made it? What course should be pursued in such case? What is the penalty for making a false declaration regarding the right to vote? What is the penalty for illegal voting at a district meeting when the voter has not been called upon to make a declaration?

Can an alien vote at a school meeting if he possesses all other qualifications of voters? What action may be taken upon any proceedings of a district meeting carried by illegal votes? If the illegal votes cast do not affect the result of any proceedings, what is the ruling of the State Superintendent? Upon what questions may a chairman of a meeting vote? Can a chairman cast a deciding vote in case of a tie if he has already voted on the question? May a man vote on qualifications possessed by his wife? May a woman vote on the qualifications of her husband?

Does the law fix the amount of real estate a person must own or rent to qualify him to vote? Explain the rulings of the State Superintendent as given in numbers 8, 9, and 10 of this chapter.

## CHAPTER XIV

### SITES AND SCHOOL BUILDINGS

[SUBDIVISIONS 7 AND 8 OF SECTION 14 AND SECTIONS 19, 20 AND 21, TITLE VII]

#### SITES

**Designation of Site.** — A site for a school-house can be determined at a special meeting of the district only. Such special meeting must be duly called for that purpose. A written resolution in which the proposed site is described by metes and bounds must be adopted by a majority vote of the qualified voters present and voting. The vote upon such resolution must be by ayes and noes. A record of such vote must be made, showing how each person voted upon the proposition.

A district, at a special meeting, may designate two or more sites with the approval of the school commissioner having jurisdiction. The notice of such special meeting must state the proposed number of sites that will be voted upon.

**Improvement of Site.** — The voters at a school district meeting may vote to improve the site or sites of such district or they may vote to enlarge

such site or sites. This action may be taken at a special or an annual meeting.

**Tax for Site.** — The voters of a school district may vote a tax to purchase, lease, and improve the sites of such district. This tax must be levied and assessed in the same manner as taxes for other school purposes.

**Change of Site.** — To change the site of a school-house owned by a school district whose boundaries have not been altered and upon which there is a school-house erected or in process of erection, or to remove the school-house of such district,— two steps are necessary:

*First.* The legal voters of such district by a majority vote at a special meeting called for that purpose must adopt a written resolution designating a new site and describing it by metes and bounds. The vote on such resolution must be by the ayes and noes, and a record must be made showing how each voter voted. If this resolution fails to receive a majority vote in the affirmative, the site cannot be changed nor the school-house removed.

*Second.* If such resolution should receive a majority vote in the affirmative, it is then necessary to obtain the written approval of the school commissioner having jurisdiction. If a school

commissioner withholds his approval such changes cannot be made. Where the boundaries of a district have been changed since the district was formed, this approval is not necessary.

**Acquisition of Sites.** — Where the owners of land will not consent to the sale of such lands for sites for school buildings, such lands may be acquired without their consent under the provisions of the Condemnation Law.

In acquiring property by this method not less than the whole of any city or village lot with any erections thereon shall be taken without the consent of the owners. Beyond the corporate limits of a city it is unlawful to take a garden or orchard or any part thereof, or any part of any garden or enclosure necessary to the use and enjoyment of buildings, or any fixtures or erections for the purposes of trade or manufacture without the consent of the owner thereof. See Chapter 305, Laws of 1904.

**Sale of Former Site.** — Whenever the site of a school-house is changed as provided above, the legal voters of the district at a special or an annual meeting duly convened, may, by a majority vote, direct the sale of the former site and the buildings thereon at such price and terms as they deem proper.

**Transfer of Title.** — The trustees or a majority of them, when so directed by a district meeting, may execute a deed transferring the interest and title of the district to such estate, and such deed is valid and binding.

**Bond and Mortgage or Other Security.** — Whenever a district meeting directs that credit may be given to the purchaser of such property for any portion of the amount paid therefor, the trustees have authority to take in their corporate name security by bond and mortgage or otherwise, as they shall deem best. The trustees hold such security as a corporation and should account therefor to their successors in office and to the

district in the same manner as they are now required by law to account for moneys received by them. Trustees in their official capacity may sue for and recover the moneys due and unpaid upon any security so taken by them or their predecessors.

**Disposition of Proceeds.** — The proceeds derived from the sale of such property must be applied on the expense of procuring a new site, of removing or erecting thereon a school-house, and of improving and furnishing the site, the school-house, and their appendages, so far as may be necessary. If a surplus should remain, it should be devoted to the purchase of school apparatus or used for any other support of the school, as the voters at an annual meeting may choose to direct. (This applies to common-school districts only.)

**Designate Sites Without Vote of District.** — In a district containing 5,000 or more inhabitants the board of education may without vote of the district designate a site or sites, or an addition to a site or sites. (Chapter 112, Laws of 1903.)

#### SCHOOL BUILDINGS

[SEE ARTICLE 2, TITLE VIII]

**Location of School-house.** — The law provides that no school-house shall be erected so as to stand upon the division line of any two towns.

**Repairs of School-house.** — It is the duty of the trustees of a district to keep the school-house in proper repair and reasonably comfortable for use, and for that purpose they may expend fifty dollars each year without a vote of the district. (Section 47, title 7.)

When the sum of fifty dollars is not sufficient to put a school-house in proper repair and the district has not voted to make any expenditure for repairs, the trustees should apply to the school commissioner for an order directing them to make the necessary repairs.

A school commissioner has authority to direct that repairs to the extent of two hundred dollars shall be made, when in his judgment he deems it necessary. A commissioner may issue this order without application from the trustees. When the order is issued it should state the character of the repairs to be made — whether new seats, a new roof, or any other improvement. As a trustee may expend only fifty dollars without a vote of the district and as a commissioner may direct trustees to expend only two hundred dollars, it is advisable, when two hundred and fifty dollars is insufficient to make the necessary repairs or to put the building in proper condition, for the trustees to call a special meeting of the district for the purpose of voting an expenditure for additional repairs. (Section 13, title 5.)

There is no limit put upon the amount which a district meeting may vote for repairs. When a district meeting votes an appropriation for repairs, it should direct the nature of such repairs.

It is the duty of trustees to make such repairs as are directed either by a commissioner in his order or by a district meeting. For a failure to do this, a trustee may be removed from office.

**Tax for Erection of School-house.** — The qualified voters, at an annual school meeting or at a special meeting called for the purpose, may vote a tax for the erection or repair of a school-house. There is no limit in regard to the amount which a district may vote for this purpose.

When a district refuses to vote an appropriation sufficient to make any necessary repairs to the school-house, the relief of any aggrieved person residing in the district is to bring an appeal to the Commissioner of Education who may order the district to make necessary repairs.

**Approval of Plans.** — No school-house shall hereafter be erected, and no addition to a school building

at a cost to exceed \$500 shall hereafter be erected, in any school district or in any city of the third class until the plans and specifications for the same have been submitted to the Commissioner of Education and his approval indorsed thereon.

Under this law the Commissioner of Education has adopted the following regulations:

The plans and specifications must be submitted in duplicate, the original set to be returned after the indorsement of approval, the duplicate to be retained on file at this Department.

The plans and specifications must show in detail the ventilation, heating and lighting of the building. The contract should include a guaranty that the system of ventilation described will provide at least 30 cubic feet of air every minute for each pupil. It will be necessary to give the size of windows, distance from top of window to ceiling and number of panes in sash.

At least 15 square feet of floor space and 200 cubic feet of air space for each pupil to be accommodated in each study or recitation room must be provided. In this connection it will be necessary not only to state the size of the rooms (length, breadth and height) but also to give the number of individual desks to be placed in the room.

The plans and specifications must clearly show that proper provision is made in all respects "to facilitate egress in cases of fire or accident and to afford requisite and proper accommodations for public protection in such cases."

The windows in all study rooms and recitation rooms should be so arranged that the main light will come from the pupils' left and the supplemental light from the rear. The windows should be grouped together as nearly as possible on the pupils' left so that the light may be massed, thereby furnishing a comparatively even distribution of light and minimizing areas of light and shadow.



The windows should extend as near to the ceiling as the principles of construction will admit and should be without transoms or unnecessary frame work.

Any considerable area on the side to the left of the pupils that is without window surface should be opposite the space in front or in the rear of the pupils' desks.

The ratio of window surface to floor surface should be one to five. If the main light comes from the north or from a side of the building which is well shaded, the ratio should be one to four.

As far as possible the rooms and windows should be so arranged that the aisles may run the long way of the room.

In the primary grades the blackboards should be placed 26 inches from the floor, in the intermediate grades 30 inches and in the grammar grades 36 inches. Each blackboard should be provided with a trough at the bottom, which should have an open woven wire cover on hinges.

Special cloakrooms should be provided which should be thoroughly heated and ventilated.

A soft color should be used in finishing the walls — a light greenish gray. The ceiling should be white. The window shades should correspond in color with the walls.

**Payments by installments.** — When a school district has voted a tax for the erection of a school-house, it may by a majority vote at any meeting regularly convened, decide to raise the amount thus voted, by installments. The vote on the question must be by the ayes and noes. A record of each voter and the way such person voted should be duly made. When such action is taken by a district, it is the duty of the trustees to raise by tax such installments and the interest thereon, as they become due, in the same manner as other school taxes are raised. The last installment cannot be extended beyond twenty years from the date on which the vote was taken.

**Reconsideration of Vote.** — The vote authorizing a tax by installments cannot be reconsidered at the meeting at which such vote was taken. A reconsideration of such vote must be at an adjourned meeting held within thirty days thereafter. A majority vote, taken by recording the ayes and noes, is necessary for reconsideration.

**Issue of Bonds.** — When a school district has voted to raise a tax by installments for the erection of a school-house, it is the duty of trustees to borrow the sum necessary at a rate of interest not to exceed six per cent. and to issue bonds or other evidences of indebtedness therefor. These bonds and interest thereon are a charge upon the district and must be paid as they become due. They cannot be sold below par.

**Sale of Bonds.** — The trustees must give notice of the time and place of the sale of such bonds at least ten days prior thereto.

**Report of Payments, etc.** — The trustees or persons having charge of the issue or payment of such indebtedness must make an annual report to the clerk of the board of supervisors of the county in which the district is located. This report must be made on or before November 1st each year and must show the exact condition of such indebtedness.

#### CONDEMNATION OF SCHOOL-HOUSE

[SUBDIVISION 4, SECTION 13 OF TITLE VI]

**Order.** — When in the judgment of a school commissioner the school-house of any district under his jurisdiction is wholly unfit for use and not worth repairing, he may issue an order condemning such property and he should fix a time therein when such order shall go into effect. The commissioner should also direct in such order the expenditure of an amount which in his judgment is necessary to erect a school-house for

the accommodation of the children of such district.

**Service of Order.** — The commissioner must immediately serve such order upon the trustees of the district and transmit a copy thereof to the State Superintendent of Public Instruction.

**Trustees should call Special Meeting.** — Immediately upon being served with a copy of such order, the trustees should call a special meeting of the district for the purpose of considering the question of building a school-house.

The legal voters at such special meeting have power to determine the size of the building and the material to be used, and to vote a tax to build the same. The district meeting may also decrease the estimated amount of the commissioner for the erection of such building twenty-five per cent., and the district may also increase the amount estimated by the commissioner.

**Failure of District to Vote Tax.** — When a district fails to vote a tax to build a school-house, within thirty days from the date on which the first meeting for considering the question was held, the trustees have power, and it is their duty to contract for the erection of such building and to levy a tax to pay for the same. This tax shall not exceed the estimate of the

commissioner and shall not be more than twenty-five per cent. less than such estimate.

**Insurance of Buildings.** — The trustees of a school district should insure the buildings of the district. Their duty in this matter is explained in the chapter on "Trustees; powers and duties." It is also the duty of boards of education to insure the buildings of union free-school districts. (See chapter on "Boards of Education; powers and duties.")

**Sale of Buildings.** — When a school district decides to build a new school-house, the district meeting should direct what disposition should be made of the old building. This is usually done by directing the trustees to sell it at public auction. The district meeting may, however, direct some other course to be pursued.

The school buildings may be sold when a district has been dissolved. (See chapter on "School Districts.")

The school buildings of a district may also be sold when the site of the district buildings has been changed. (See this chapter, "Sale of former site.")

**Stairways Outside of Buildings.** — It is the duty of trustees or boards of education of all school districts outside of the cities of New York

and Brooklyn \* to provide stairways on the outside of all school buildings that are more than two stories high, with suitable doors connecting therewith from each story above the first. These may be built without a vote of the district, at a reasonable expense, which is chargeable to the district the same as other taxes. (Section 49, title 7.)

**Out-buildings.** — It is the duty of school districts to provide out-buildings on the school premises. The law provides that these buildings shall be as follows:

1. They must be suitable and convenient.
2. There must be two, and they must be entirely separated from each other. These two closets may be under one roof and over the same vault.
3. They must have separate means of access, and the approaches thereto must be separated by a substantial close fence, at least seven feet high.
4. They must be kept in a clean and wholesome condition.

When school-district meetings fail to vote a tax for this purpose, trustees may expend such sum as the school commissioner will approve, without a vote of the district.

**A failure on the part of trustees to comply with**

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\* This law was enacted when New York and Brooklyn were separate cities.

these provisions is sufficient reason for removing them from office, and for withholding from the district its share of public money from the State. Trustees are personally responsible to the district for any loss in this respect through their negligence. (Section 48, title 7.)

When a district has no out-buildings, a trustee may expend fifty dollars for the erection of such buildings, upon the order of the school commissioner or of the State Superintendent of Public Instruction. (Section 50, title 7.)

### REVIEW QUESTIONS

What meeting can decide upon a site for a school-house? How must such decision be determined? What must the resolution contain? How must the vote be taken? What record must be made? When may a district designate more than one site? What must the notice of a special meeting state? How can the site of a school district be improved or enlarged. At what meetings? What tax may a district vote in relation to sites? Is there a limit to the amount that can be voted? How is such tax levied and assessed? When the boundaries of a district have not been changed, how many steps are necessary to change the site of the school-house? What is the first? The second? How may the school site of a district be changed when the boundaries of the district have been altered? What disposition is made of the old site and buildings of a district when a change of site has been legally made? How may the title of the district of such property be transferred? When may bond and mortgage be given to protect districts? How is such security held for the district? How may the unpaid money due the district be collected? What disposition must be made of the proceeds of the sale of such property?

What prohibition is there in relation to the location of a school-house? Whose duty is it to keep the school-house in reasonable repair? How much may such officer expend therefor without a vote of the district? Can the district vote a larger amount? If fifty dollars is insufficient and the district has not voted an appropriation, how may the trustee obtain authority for making the needed repairs? What amount may a commissioner order a trustee to expend? How does a commissioner give authority to his order? In what particulars should this order be specific? Is there a limit to the amount a district may vote for repairs? When a commissioner has ordered repairs to school buildings or a district has voted repairs, what is the duty of the trustee? What is the penalty for a failure to do this? What amount may a district vote for erecting a school-house? What limit is there to the amount of tax which a district can levy for this purpose? What action is necessary in order to levy a larger amount? What plans of school buildings must be approved? By whom?

When may a district erect a school-house and pay therefor by installments? How must the vote be taken? How must a tax for such installments be raised? For what period may the payment for the last installment be made? How may a vote authorizing such tax by installments be repealed? By what method may bonds be issued for this purpose? What limit is placed upon the rate of these bonds? What restriction is placed upon the sale of these bonds? What notice of the sale of such bonds must be given? What report of payment, etc., must be made by the trustees? To whom? When?

When may a school commissioner condemn a school building? How? What estimate in regard to the expenditure in erecting a school-house should the order of the commissioner contain? Upon whom must the commissioner serve such notice? What is the duty of trustees when served with such notice? What power has a meeting in relation to such matters when regularly called? May the district decrease the estimate of the commissioner? By what amount? May the amount be increased? How much? Within what period should a district vote to build? What is the duty of the trustee if the district takes no action within that time? What tax in this case may a trustee levy without a vote of the district? What are the duties of trustees of common-school districts in

relation to insuring school buildings? What of boards of education of union free-school districts? Name three cases in which school buildings may be sold? What is the method of procedure in each case?

What is the duty of school officers in relation to building stairways on the outside of school buildings? What are the requirements for out-buildings in school districts? When a district fails to vote an appropriation for the purpose of making proper repairs, what amount may the trustee expend? What is the penalty for a failure on the part of the trustee to comply with the law? What is the loss to the district? The responsibility of the trustee to the district? When a district has no out-buildings, what amount may the trustees expend for their erection? Upon whose order?



## CHAPTER XV

### ASSESSMENT AND COLLECTION OF DISTRICT TAXES

(SEE ARTICLE 7 OF TITLE VII)

**Assessment of Taxes by Trustees.**— It is the duty of trustees to assess on the taxable property of a district all taxes voted by a district meeting and to make out a tax-list therefor. A tax thus voted should be assessed within thirty days from the date on which it was voted. The courts of the State have held, however, that the law in this respect is only directory and that trustees may issue a tax-list and warrant after the expiration of thirty days from the time the tax was voted.

In assessing a tax voted by the district, trustees may also assess at the same time a tax which they are authorized to assess without a vote of the district and may include two or more taxes in one tax-list.

A tax-list is not complete until it has passed from the trustees to the officer whose duty it is to collect it, and any time before its completion it may be altered and amended by the trustees.

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Chapter 502, Laws of 1902, provides that any town in St. Lawrence county may adopt a uniform system of taxation for school purposes at a biennial town meeting. The details of the law may be found by consulting the session laws of 1902.

**Heading on Tax-List.**—The law directs that trustees shall prefix to each tax-list a heading showing the purpose for which the different items of the tax are raised. Any tax-list not containing this heading will upon appeal be set aside by the State Superintendent. The details of each item need not be set forth. If an item is for repairs, it is sufficient to state, "For repairs on school-house, \$25.00," and it is not necessary to give each item included in such repairs.

**Form of Tax List.**— In making out a tax-list trustees should rule six separate columns and give in such columns the following data:

1. The first column should contain the names of all the persons and corporations liable to taxation in the district.
2. The second column should show the number of acres of land to be taxed to each person or corporation.
3. The third column should give the assessed valuation of such land.
4. The fourth column should give the full value of all the taxable personal property of each of the persons or corporations named in the first column.
5. Valuation of taxable rents reserved.
6. The amount of each individual's or corpora-

tion's tax. (See section 22, article 2, chapter 908, Laws of 1896.)

Trustees cannot place upon a tax-list the uncollected taxes of some former tax-list. They can not increase the assessment upon the property of a tax-list to make up a loss caused by a failure to assess property upon a former list. If property is omitted from a tax-list and the mistake is not discovered until the taxes are collected and the warrant is returned, it is too late to remedy the mistake.

**Apportionment of Taxes Upon Real Estate.—** Trustees must apportion district taxes upon all real estate within the boundaries of the district, except that which is exempt by law from taxation. Such property must be assessed to the person or corporation owning or possessing it at the time the tax-list is made out.

**Real Estate Lying in One Body but in Two or More Districts.—** Lands lying in one body but located in two or more school districts, and occupied by the same person either as owner or as agent for the same principal or tenant under the same landlord, if assessed as one lot by the town assessors, are taxable in the district in which the occupant of such lands resides.

In cases of this kind there are three distinct

questions to settle in order to determine where such lands are taxable. These are:

*First.* The land must lie in one body. It is not sufficient that such lands shall be joined by a mere *point*. There must be an actual *line* of contact.

*Second.* The ownership of such lands must be by one person. If there is a joint ownership of such lands, they can not be assessed under this provision.

*Third.* The occupancy of such lands must be determined. The whole body of such land must be occupied by one person. This person must be either the owner of such lands or the agent or tenant of one and the same landlord.

All lands of this description which do not comply with the three provisions above given, must be assessed for their respective portions in the district in which such parts are located.

**Non-Resident Real Estate.**— Non-resident real estate is real estate which is not occupied and improved by the owner or by his servant or agent, and which is not possessed by a tenant. Briefly, it is unimproved and unoccupied land. This land must be assessed by trustees as town assessors assess such lands in towns. It must be placed upon a separate part of the tax-list, and

the name of the owner must not be mentioned, unless such land is owned by an incorporated company, in which case the law directs that the name of such company must be given. The description of such land must be accurate and such as would enable a purchaser to locate it, and would enable the owner to know that it was his land that was thus described.

A collector can not levy upon and sell the personal property of the owner of non-resident land.

But if the owner of real estate in any school district improves and occupies such land himself, or causes it to be improved or occupied by an agent or servant, such owner, in regard to the liability of such property to taxation, is considered a taxable inhabitant of such district. In this case a collector could seize and sell the personal property of the owner of such estate for the amount of school taxes.

If such real estate is occupied by tenants or sub-tenants they are the proper persons to whom such property should be assessed, and not the owner thereof. If such tenants improve the land, although they do not reside on it, they are considered under the law taxable inhabitants of such district. (See sections 29 and 30, article 2, chapter 908, Laws of 1896.)

**Apportionment of Taxes on Personal Property.**—Trustees must apportion district taxes upon all persons residing in the district and upon all corporations, for all personal property owned by them and liable to taxation in such district.

Trustees should also apportion taxes upon non-resident stockholders in banks or banking associations located in their districts for the amount of stock owned by them in such banks or associations, and upon individual bankers doing business in their district, in accordance with the provisions of the general law relating to taxation.

**Valuation of Property.**—Trustees, in making out a tax-list, must ascertain the valuation of taxable property so far as possible, from the last assessment-roll of the town after such roll has been revised by the assessors.

**Reduction of Valuation.**—The valuation of any property shall not be reduced from that given in the town assessment-roll, unless the persons claiming such reduction file a written notice of such claim with the trustees before the tax-list is completed. When such claim is duly filed and it appears that the property in question has diminished in value since the last assessment-roll

of the town was made, or it appears that an error has been made by the town assessors, it is the duty of the trustees to ascertain the true value of such property. The law provides that they shall give notice to the interested parties and proceed in the same manner as town assessors. If, in the judgment of the trustees, such claim is valid, they should reduce the valuation of the property and make out their tax-list. Such tax-list should be left with one of the trustees or at some place where interested persons can inspect it for at least twenty days from the date on which the notice of the completion of such tax-list is given. The notice of the completion of such tax-list and of the original assessment must be posted in at least three public places in the district. When the valuation of property is reduced the *interested parties* are all the tax-payers of the district.

**Assessment of Property by Trustees.**—When any taxable property of the district is not included in the assessment-roll of the town, it is the duty of trustees to place such property on the tax-list of the district and give it a valuation, or if any property shall have increased in valuation since the last assessment-roll of the town was revised, it is the duty of trustees to give such property an increased valuation. In either of

these cases, trustees should serve a notice of their action on the person so assessed; it is not necessary to post notices in the district.

**Equalization of Valuations by Supervisors.**— When the trustees of a district which embraces parts of two or more towns request the supervisors of such towns to meet to determine whether the assessments of property in these towns are equitable when compared with each other, or when three or more persons liable to pay tax on real estate make such request, it is the duty of the supervisors to comply with such request. This request to supervisors should be written, and the meeting of the supervisors should be not less than five days from the service of such notice and not more than ten days. The notice should name the time and should designate some place within the bounds of the towns in which the districts are located.

If the supervisors find that such assessments of property are not equitable, they should determine the relative proportion of taxes that should be assessed upon the property of the parts of such district lying in different towns. Thereafter, trustees should assess taxes in accordance with such determination until new assessment-rolls of the towns are perfected and filed.



When the supervisors are unable to agree, they may summon the supervisor of an adjoining town and the finding of a majority of them shall be the determination of the question.

**A Person Working Land on Shares.**—A tenant working land and paying a share of the produce as rent is liable to taxation for school purposes on such land. In all cases of doubt it is safer to assess taxes to the owner of land than to the tenant.

**A Person in Possession Under Contract.**—Any person in possession of real property under contract for the purchase thereof is liable to taxation for school purposes in the district in which such property is located.

**Tenant's Tax Chargeable to Landlord.**—A person who is tenant at will or for three years or a shorter period of time, and who pays a tax upon the real estate of which he is in possession, for the purpose of purchasing a site for a school-house, or for purchasing, building, or repairing a school-house, or for supplying the necessary fuel and appendages, may require the owner of such real estate to refund the amount paid for such taxes. The owner of such real estate could not be compelled to pay such tax if he had made an agreement with the tenant that such tenant

should pay the tax. The only school taxes chargeable to the owner of such real estate are those for the purposes above named.

**Exempt from Taxation for Building a School-house.**— Any taxable inhabitant of a district shall be exempt from taxation for the purpose of building a school-house in the district in which he resides, under the following conditions: Such inhabitant must have been set off from some other district *without his consent*, within four years previous to the assessment of such tax, and such inhabitant must have paid within that period in the district from which he was set off a tax for building a school-house in such other district. A voluntary contribution toward building a school-house is not a tax. If such inhabitant was set off from a district *with his consent*, he is not exempt from the taxation in question.

**Collector's Return of Unpaid Taxes.**— The law provides that collectors shall make a return to the trustees of all unpaid taxes on real estate and upon non-resident stockholders in banking associations organized under the laws of congress. This return must be made at the time the collector returns his warrant to the trustee. A copy of that part of the assessment-roll unpaid must be made by the collector, and he must make

an affidavit before some person authorized to administer oaths that the taxes named in such copy are unpaid, and that after diligent efforts he has been unable to collect the same. After a collector has pursued this course, trustees should credit him with the amount of such unpaid taxes, and thus relieve him from the liability resulting from negligence in collecting.

**Trustee's Certificate to County Treasurer.**— As soon as the trustees of any district receive such return from a collector, they should compare it with the original tax-list, and if they find it to be a true copy, they should attach thereto their certificate showing that they have made such comparison and that they find such return correct. The trustees should then transmit the return of the collector of such unpaid taxes, together with the collector's affidavit and their certificate, to the county treasurer.

**Collection of Such Unpaid Taxes.** — The county treasurer should present to the board of supervisors of the county the collector's return of such unpaid taxes, the collector's affidavit, and the trustees' certificate of comparison; and such board of supervisors should thereupon assess the amount of such unpaid taxes, with seven per cent. of such sum in addition thereto, upon the

very same property upon which the trustees originally assessed the tax. If such taxes are then paid, a return should be made to the county treasurer. If these taxes should not be paid, the county treasurer should render an account thereof to the State Comptroller, and that officer should sell the land on which such taxes are assessed as the law directs.

Any person against whom such unpaid taxes stand may voluntarily pay such tax, with five per cent. in addition thereto, to the county treasurer, any time before the board of supervisors have directed that such tax be levied.

**Payment of Such Unpaid Taxes by County.**— The county treasurer, upon receiving the required papers to be filed with him, should pay to the collector of the district in which such taxes were levied the amount of such unpaid taxes, with one per cent. in addition thereto, from the contingent fund. If there is no contingent fund, the board of supervisors should order a draft to be drawn upon the county treasurer in payment of such amount, which must be paid as all other county charges are paid.

**Warrant for Collection of Taxes.**— The warrant for the collection of a district tax should be issued by the trustees and signed by them or a

majority of them. A warrant may be signed with or without seals. It is the official document which gives the collector authority to collect all taxes included in the tax-list. The warrant confers upon a school-district collector the same powers that are conferred upon town collectors by the warrant of the board of supervisors.

**Delivery of Warrant.** — A warrant for the collection of any tax voted by the district must not be delivered to the collector until the thirty-first day after the tax is voted.

A warrant for the collection of a tax which trustees are authorized to raise without a vote of the district may be delivered to the collector whenever it is completed.

Trustees should take a written receipt from a collector for every tax-list and warrant delivered to such collector. Such receipt should show the date on which the warrant is returnable and the amount to be collected.

**Notice of Receiving Taxes.** — As soon as the collector receives a warrant for the collection of taxes, he should post notices in at least three public places in the district — one of these notices must be on the outside of the front door of the school-house — stating that such warrant has been received by him and that during the ensuing

thirty days from the date of such notices he will receive all taxes voluntarily paid to him

If there is any assessment on the tax-list against a railroad company or against any canal or pipe-line company, the collector must notify such company either personally or by mail at least twenty days before the expiration of the thirty days above mentioned. If a collector fails to give such notice, he will be entitled to receive only one per cent. fees for the collection of such taxes. This notice may be filed, in the case of a railroad, with the ticket agent of such railroad nearest the district in which such tax is assessed, and in the case of a canal or pipe-line company, with the president, secretary, or general division superintendent or manager of such company.

If the tax of any non-resident is more than one dollar, the collector should give like notice to such non-resident, if his post-office address is known to the collector or if the collector can ascertain what such address is from the trustees or the clerk of the district.

**Renewal of Warrants.**— If any of the taxes on a tax-list are not paid previous to the expiration of the trustees' warrant, the trustees may renew such warrant and allow the collector additional time to collect such unpaid taxes. This renewal

should be indorsed upon or attached to the original warrant and should state the period of time for which it is issued. A warrant may be renewed more than once, but the approval of the supervisor of the town in which the district is located is necessary. Where such approval is not obtained, a warrant can be renewed only once.

**Amendment or Correction of Tax-List.**—Whenever the trustees discover that an error has been made in the tax-list, such tax-list may be amended or corrected upon application to the State Superintendent of Public Instruction. The application should state the exact facts relative to such error, the date of the tax-list, and the number of the district and the name of the town in which such district is located.

**Trustees May Sue for Tax.**—When any tax on a tax-list has not been paid, either by an individual or a corporation, within the time permitted by the warrant or the renewal of a warrant, the trustees may in their name of office sue such individual or corporation for such unpaid taxes.

**Trustees May Sue Collector's Bond.**—For all forfeitures to which a collector is liable and for all money which he may neglect or refuse to pay to his successors in office, or the treasurer of the district, the trustees may sue the bond of such collector.

**Filing Tax-List and Warrant.**—Within fifteen days after any tax-list and warrant has been returned by a collector to the trustees of a district, such trustees should deliver such tax-list and warrant to the town clerk of the town in which the collector resides.

**Expenditures Without Vote of District.**—Trustees may make the following expenditures and include the same in a tax-list without vote of the district:

1. For the erection of out-buildings, \$50, if directed by the school commissioner.
2. For repairs on out-buildings, an amount approved by the school commissioner.
3. For the construction of a stairway on the outside of the school building, when such building is two or more stories high, a reasonable amount.
4. For repairs on school-house, \$50.
5. For repairs on school-house, when directed by the school commissioner, \$200.
6. For the general running expenses of the district, a reasonable amount.
7. For the salary of teachers, an amount to meet such salary for four months in advance.
8. For furniture, \$100, when directed by the school commissioner having jurisdiction, and \$50, without direction by the commissioner.



9. For the abatement of a nuisance, \$25, when directed by the order of the school commissioner having jurisdiction.

10. For the erection of a new school-house, when the school commissioner having jurisdiction has issued an order condemning the old building, an amount which the commissioner states in such order is necessary for the erection of a new building.

11. For school apparatus, \$25.

### REVIEW QUESTIONS

Who is charged with the duty of making out a district tax-list? When should a tax-list for a tax voted by the district be made out? What have the courts ruled on this question? How many taxes may a trustee include in one tax-list? When is a tax-list complete? When may a tax-list be altered? Explain the nature of the heading which should be prefixed to a tax-list. Into how many columns should a paper on which a tax list is made be ruled? State the information which should be given in each column? Have trustees the power to include in a tax-list the uncollected taxes of a former tax-list? Have they the power to assess upon property a tax to meet a loss caused by a failure to assess property on a former tax-list? When can the omission of trustees to assess property be corrected?

Upon what real estate must trustees assess district taxes? To whom should such property be assessed? What is the law relative to assessing real estate lying in one body but in two or more districts? What are the three questions to be determined in these cases? How must such lands be assessed when they do not comply with these provisions? What is non-resident land? How should such land be assessed? State fully how it should be placed upon the tax-list? How should it be described? Can a collector legally sell the personal property of the owner of non-resident land for a tax on such land? When a non-resident owns real estate in a school district and when he improves such property himself or causes it to be improved by an

agent, what is his liability for taxes? When such property is occupied by tenants or sub-tenants, to whom should it be assessed?

What personal property should be assessed by trustees for district taxes? What is the law in relation to the assessment of taxes on banks and banking associations? How is the valuation of property ascertained by trustees? Have trustees the power to reduce the valuation of property? What must a person do who desires the valuation of his property reduced? What is the duty of trustees when such claim is filed? If the trustees at any time change the valuation of property, what should they then do? What notice of completion of tax-list must be given? When the valuation of property is reduced, who are *interested parties*? What is the duty of trustees in relation to real property of the district not found on the town assessment-roll? What is their duty in relation to property that has increased in value since the last town assessment-roll was revised? What is their duty in relation to personal property not on the town assessment-roll? What notice should be given in any of these three cases when property is assessed by trustees?

Who determines whether the property of a district located in two or more towns is equitably assessed? When are supervisors required to act in this capacity? If such supervisors agree that such property is not equitably assessed, what is their duty? What should be done if they are unable to agree?

When is a tenant liable for taxes on land? In cases of doubt, to whom should such land be assessed? Who is liable to taxation for real property which is in the possession of a person under a contract of purchase? Under what conditions and for what taxes may a tenant require his landlord to refund the amount of taxes paid by such tenant? Under what conditions is a taxable inhabitant of a district exempt from taxation for building a school-house?

To whom should a collector make a return of unpaid taxes? When should such return be made? How should it be made? What effect does such return have upon the liability of the collector? Upon receiving such return what action should trustees take? What should the county treasurer do to place the matter properly before the board of supervisors? What action should be taken by the board of supervisors? If these taxes are then paid

what should be done with the amount paid? If these taxes are not paid, what action should be taken by the county treasurer? What should the comptroller then do? How may this amount be collected? When may it be voluntarily paid? From what fund should the county treasurer pay such tax? To whom? If there is no such fund how is such tax paid?

What is a trustees' warrant? How is it issued? What authority does it give a collector? When may a warrant for a tax voted by the district be legally delivered to the collector? When may a warrant for a tax which trustees are authorized to levy without a vote of the district be delivered to the collector? What general notice of a warrant for taxes should a collector give? Where should such notices be posted? What special notice should be given to a railroad company or a canal or pipe-line company? How should such notice be given? How would a failure to give such notice affect the collector? What special notice should be given to non-residents? How should such notice be given? May a warrant be renewed? By whom? In what manner? May a warrant be renewed more than once? In what manner?

When may a tax-list be amended or corrected? By whom? What should the application for this purpose show? May trustees sue for a tax? When? For what causes may trustees sue a collector's bond? What should trustees do with a tax-list and warrant returned by a collector? What expenditures may a trustee make without vote of the district?

## CHAPTER XVI

### STATE SCHOOL MONEYS

[SEE ARTICLES I AND 2, TITLE II]

**Different Funds.**— There are three sources from which money is derived by the State for the support of the public school system. These sources are the common-school fund, the United States deposit fund, and the free-school fund. These funds, together with the literature fund, are known under the Finance Law as the Education Fund.

**The Common-School Fund.**— Upon the recommendation in a special message of Governor Morgan Lewis to the State legislature in 1805, an act was passed which created this fund. It provided that "The net proceeds of five hundred thousand acres of the vacant and unappropriated lands of the people of this State, which shall be first sold by the Surveyor-General, shall be and are hereby appropriated as a permanent fund for the support of common schools." The act also provided that no distribution should be made until the annual revenues of the fund amounted to fifty thousand dollars. This revenue was not

realized until 1815, when the first distribution was made. This fund was apportioned among the counties of the State on the basis of population, and each county was required to raise by taxation an amount equal to the amount received from the State. The revenue derived from these two sources constituted the State school moneys for the payment of teachers' salaries. When this amount was insufficient to pay the salary of teachers, the balance was raised by rate bills. In 1805, when this fund was originated, its capital was nearly fifty-nine thousand dollars; but in 1901, it had increased to over four million five hundred seventy-three thousand dollars. Out of the revenue of this fund the legislature annually appropriates for common schools one hundred and seventy thousand dollars.

**The United States Deposit Fund.** — On June 23, 1836, congress passed an act providing for the distribution of the surplus revenues which were held in the United States treasury at that time for safe-keeping among the various states. Of this distribution New York received about \$4,000,000. It must be understood that this fund was not given or loaned to the State, but was simply placed in its possession for safe-keeping. The United States government could recall this

money, but probably it never will. Under a provision of the State constitution, New York is required to keep the amount of this fund equal to the amount which was originally deposited. In 1837, by an act of the State legislature, this fund was distributed among the counties of the State on the basis of population. It was placed in the hands of two loan commissioners in each county, who were appointed by the Governor, to be loaned by them in their county upon bond and mortgage with interest. From the income derived from this fund, there was appropriated by the State legislature in 1838 for the support of common schools, the sum of \$165,000. This sum was annually appropriated by the legislature until 1881, when the appropriation was reduced to \$75,000, owing to a reduction in the revenue. This reduction in revenue was caused by a depreciation in the property on which investments from this fund had been made. Since 1881, the legislature has annually appropriated from the revenues of this fund \$75,000, and this sum becomes a part of the State school moneys and is used for the support of the public schools.

**The Free-School Fund.** — The Consolidated School Law provides that the legislature shall determine annually the amount of money which

shall be raised by the State by a tax upon real and personal property.\* The amount that shall be raised is discretionary with the legislature. The amount thus raised is known as the Free-School fund. The first State tax levied for this purpose was under the authority of an act passed in 1851, providing for the sum of \$800,000. This amount has been gradually increased. In 1903, it will be \$3,750,000. The greatest increase was in 1867, the year in which the rate-bills were abolished, when the legislature increased the amount to be raised from a tax of three-fourths of a mill on each dollar of valuation, to one and one-fourth mills on the dollar. It was the intent of the legislature when this increase was made, to supply funds, which, combined with the revenues of the common-school fund and the United States deposit fund, would be sufficient to support common schools in most of the school districts of the State for at least twenty-eight weeks each year.

The amount of money realized from these sources soon proved insufficient, in many cases, to support the schools the required time, and the deficiency has been raised by local taxes upon school districts. During the school year ending

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\* The legislature of 1902 abolished the State tax for this purpose and appropriated this amount from the revenues of indirect taxation.

July 31, 1904, the entire cost for maintaining and supervising the public school system of the State, including all expenditures for normal schools and other institutions under the supervision of the State Commissioner of Education, was \$43,750,276.83; and of this amount \$4,025,585.87 were received from State funds, about \$30,695,329.74 were raised by local taxes upon the property of the school districts, and \$9,029,361.22 were derived from other sources.

**State School Moneys Defined.** — The amount appropriated by the State legislature from the common-school fund and from the United States deposit fund, together with the amount raised by State tax and known as the Free School fund, constitute the State school moneys.

**Payments from State School Funds.** — The law directs that the Commissioner of Education shall set apart from the free-school fund appropriated for that purpose, the sum necessary to pay the salaries of school commissioners throughout the State. (A separate appropriation is also made by the State legislature for the payment of the salaries of school commissioners from this fund.) He should also set apart from the State school moneys a sum not to exceed \$10,000 for a contingent fund.

**Supervision Quotas to Cities, Villages and Districts Employing Superintendents.** — Every city in



the State, and every village and every union free-school district in the State having a population of 5,000 or more — which employs a superintendent of schools, is entitled to receive \$800. This money must be used for the support of the public schools of such city, village, or union free-school district. No city, village, or district is entitled to this allowance unless a competent person is employed as superintendent, who shall give his time exclusively to the general supervision of the public schools of such city, village, or district. This appropriation is known as a supervision quota.

**Enumeration of Inhabitants.** — A village or a union free-school district, claiming a population of 5,000 and employing a superintendent, is not entitled to any allowance in the first instance until an enumeration of the inhabitants of such village or district has been made which shall show the population thereof to be at least 5,000. The expense of taking such enumeration is a charge upon the district in whose interest it is made, and must be paid upon the certificate of the Commissioner of Education.

**Annual Apportionment.** — After making the deductions above mentioned, the Commissioner of Education shall apportion the remainder of the State school money, on or before the 20th day of January in each year, among the several counties of the State. This

is apportioned as district quotas and teachers' quotas and the remainder is apportioned among the several counties on the basis of population.

**Apportionment of District and Teachers' Quotas.**

— The Commissioner of Education shall first set apart for each of the school districts and cities of the State the quotas to which they are entitled. A district or city, to be entitled to a district quota, must have had school taught therein by a duly licensed teacher (or by successive duly licensed teachers) for at least one hundred and sixty days, inclusive of legal holidays, and attendance upon a teachers' institute — which shall not exceed three weeks, and exclusive of Saturdays. It is unlawful to count any Saturday as a part of the one hundred and sixty days of school required, and it is also unlawful to have a school in session on a legal holiday, except Lincoln's Birthday and Washington's Birthday.\*

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\* **LEGAL HOLIDAYS.** — The following days are legal holidays in this State:

January 1 — New Year's Day.

February 12 — Lincoln's Birthday.

February 22 — Washington's Birthday.

May 30 — Memorial Day.

July 4 — Independence Day.

First Monday in September — Labor Day.

First Tuesday after first Monday in November — General Election.

Last Thursday in November — Thanksgiving Day.

December 25 — Christmas Day.

If a legal holiday occurs on Sunday, the day following is observed and considered in all respects as a legal holiday.

For every additional duly licensed teacher (or successive duly licensed teachers) employed the required time of one hundred and sixty days, the district or city shall be entitled to one teacher's quota.

The amount of a *district* quota is as follows: Each district having an assessed valuation of \$20,000 or less, \$200; each district having an assessed valuation of \$40,000 or less but more than \$20,000, \$175; each district having an assessed valuation of \$60,000 or less but more than \$40,000, \$150; each district having an assessed valuation greater than \$60,000 and each city of the State, \$125. Each Indian reservation receives a quota of \$150 for each teacher employed therein for a period of thirty-two weeks or more.

The amount of a *teacher's* quota for each city and district is \$100.

The distinction between a district quota and a teacher's quota should be clearly understood. An examination of the law — chapter 316, Laws of 1902 — may give a clearer understanding.

**Apportionment to Counties on Population.** — After the State Commissioner of Education has apportioned the district and teachers' quotas as described in the preceding paragraph, he apportions the remainder of the State school moneys, and also the library moneys, separately, among the counties of the State according to their respective population, excluding Indians residing on their reservation. In counties in which there are cities, he apportions to each city the amount to which it is entitled and to the remainder of the county the portion to which such part of the county shall be entitled. New York City is considered one county.

**Application of State School Funds.** — All moneys, except library moneys, apportioned to a school district or city by the Commissioner of Education as described in the preceding two paragraphs, must be used by such district or city for the payment of the wages of duly licensed teachers employed in such district or city, or for tuition and transportation of pupils. It is a misdemeanor for school authorities to use this money for any other purpose. (See art. 4, title 15, and subd. 19, sec. 14, title 7.)

**Additional Apportionment to Cities, Academic Departments and Libraries.** — To each city, union school district, and non-sectarian academy for each academic department maintained therein, \$100.

To each non-sectarian private academy for approved books and apparatus an amount equal to the amount raised from local sources but not to exceed \$250.

To each city for approved books and apparatus an allowance not to exceed \$18 and two dollars additional for each duly licensed teacher employed therein for the legal term and \$250 for each academic department.

To each union school district maintaining an academic department for approved books and apparatus an allowance equal to the amount raised from local sources but not to exceed \$260 annually and two dollars additional for each teacher employed in the district for the legal term,

To all other school districts for approved books an allowance not to exceed \$18 annually and two dollars additional for each duly licensed teacher employed in the district for the legal term.

**Allowance to Excluded Districts.** — When a school district has been excluded from participation in any apportionment by failing to make a report required by law or by failing to comply with any other provision of law or with any regulation of the Commissioner of Education which he has authority to adopt, he may, in his discretion, when it shall be shown to his satisfaction that such omission was accidental or excusable, allow such district an equitable apportionment. If the apportionment was made by the Commissioner of Education, he may cause an equitable apportionment to be allowed such district to be paid out of the contingent fund; and if the apportionment was made by the school commissioners, he has authority to direct them to apportion such allowance to the district at their next annual apportionment. Such allowance must be in addition to any apportionment to which such district may then be entitled.

**May Direct Payment of Quota when Teacher was not Qualified.** — Where a teacher has been employed who was not duly qualified, the Commissioner of Education may, in his discretion, upon the recom-

mentation of the school commissioner having jurisdiction over the district in which such teacher was employed, direct that the money equitably apportioned to such district shall be paid to such teacher in satisfaction of his or her wages.

**May Reclaim Moneys Apportioned.** — Whenever money shall have been apportioned to a county, part of county, or school district to which it was not entitled, and when such money shall not have been expended, the Commissioner of Education may reclaim such money or excess by directing that such money shall be paid by any officer in whose hands it may be, into the State Treasury. Such money when reclaimed shall be credited to the free-school fund. If such money shall have been expended so that it shall be impracticable to reclaim it, the Commissioner of Education shall deduct such amount from the portions of the county or district which received it, in his next annual apportionment. The sum thus deducted should be distributed among the counties or school districts entitled to the same.

**Supplemental Apportionment.** — Whenever a school district or county shall have received by apportionment a less sum than it is entitled to, the Commissioner may make a supplementary apportionment to make up such deficiency, which apportionment shall be payable out of the contingent fund. If this fund

is not sufficient for the purpose, the Commissioner shall supply such deficiency in his next annual apportionment.

**Certificate of Apportionment.** — As soon as possible after the Commissioner of Education has made an annual apportionment, he should file with the county clerk, the county treasurer, the school commissioners, and the city treasurers or chamberlains, of every county and city of the State, a certificate of apportionment for their county or city. When the Commissioner makes a supplemental apportionment, he should file a certificate of such apportionment with the county clerk, the county treasurer, and the school commissioners, of the county in which the school-houses of the district are located.

**When School Moneys are Payable.** — The Legislature of 1904 amended the school law by providing that the State school moneys shall be paid to the treasurer of each county and to the chamberlain of the city of New York, between the first day of April and the fifteenth day of May next, after the apportionment by the commissioner of education.

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NOTE. — The legislature does not make an appropriation to be apportioned counties on the basis of population. The Commissioner of Education cannot therefore make an apportionment to counties on this basis as outlined on page 215, nor can school commissioners apportion such moneys on the basis of attendance as outlined on pages 230 and 231.

**Gospel and School Lands.** — The origin of these lands may be traced back to an act passed by the State legislature, May 10, 1784. This was an act to provide for the settlement of the waste and unappropriated lands of the State. It was intended to include all of such lands located within the boundaries of the State. The act provided that such lands should be divided into townships of six miles square, as nearly as possible, and that in each of such townships 300 acres of land should be set apart for the use of a minister of the gospel, and 690 acres for the use of a public school or schools. On May 5, 1786, the State legislature passed another act regulating the sale of the unappropriated public lands of the State, and providing that the Surveyor-General should mark out in each township laid out, one lot for the support of the gospel and schools, as nearly as possible in the center of each township, and that such lot should not be sold, but reserved for and applied to promoting the gospel and the public school or schools in such township. Under the provisions of this act, each lot was to contain 640 acres, or as nearly that amount as possible. On February 25, 1789, the legislature passed another act regulating the sale and disposition of lands belonging to the State, and providing that townships should be divided into lots containing 250 acres of land or as nearly that amount as possible, and that one lot should



be reserved as nearly in the center of each township as possible, for the support of the gospel, and that another lot should likewise be reserved for the support of schools in such township. Subsequent acts of the State legislature provided that the annual rents and profits derived from these lots set apart for school purposes, should be distributed among the schools in each town employing teachers approved by the proper authority, in proportion to the aggregate attendance of pupils in their respective schools. The sale of the gospel and school lands has been directed by the State legislature, and the proceeds derived therefrom authorized to be used for the benefit of the public schools in the towns in which such lands were located. In 1904 the amount realized from this source and used for school purposes in the State was \$52,611.09. There are about thirty-eight counties in the State which still receive revenue from this fund. (For apportionment of this fund see chapter 232, Laws of 1895.)

### REVIEW QUESTIONS

Name three sources from which the State derives revenue for the support of the public school system? What is the Education Fund? When was the Common School Fund created? What led to its creation? How was it created? When was the first distribution made? What was the amount of the revenue of this fund at that time? Upon what basis was it apportioned? What were counties required to do to participate in the distribution of this revenue? For what was the money derived from these two sources used? When this amount was insufficient to pay the salary of teachers, how was the balance raised? What was the capital of this

fund in 1805? In 1901? What amount does the legislature annually appropriate from this fund for common schools?

When was the United States Deposit Fund created? By what body? How was it created? What amount did New York State receive? Was this fund given or loaned to the State? Could this money be recalled? What provision does the State constitution make in relation to this fund? What disposition was made of this money in 1857? What officers have charge of this money? How are they chosen? What do they do with this money? In 1858 what amount from the revenue of this fund was appropriated by the State legislature? For what period was this amount appropriated? What amount has been appropriated since 1881? How is the amount appropriated now used? What caused the reduction in the revenue from this fund?

What is the Free School Fund? How is the amount annually appropriated determined? When was this fund created? What amount was appropriated that year? What was the amount in 1890? In what year was the increase greatest? Why? What increase was made? What was the evident intent of the legislature when it made this increase? Does the fund do this? How is the deficiency raised? What was the cost of maintaining the school system of the State in the year ending July 31, 1904? How was this money raised? What constitute the *State school moneys*?

From what fund is the salary of school commissioners paid? Who is authorized to set this amount aside from such fund? From what fund should the Commissioner of Education set aside library money? From what fund for supervision in cities? If the United States Deposit Fund is insufficient, from what fund is the balance taken? What amount is set aside for a contingent fund? From what fund?

Upon what basis is an apportionment made to cities and villages for supervision? For what purposes must this money be used? What is necessary to entitle a city, village, or district to an allowance for a superintendent? What is a supervision quota?

When is an enumeration of the inhabitants necessary? How is the expense of an enumeration paid? Under whose certificate? When does the Commissioner of Education make the apportionment? What are district quotas? What are teachers' quotas? Upon what basis are district quotas apportioned? What entitles a district to a district quota? May legal holidays be included as any part of the 160 days that schools are required to be taught in order to entitle a district to a quota? May Saturdays? May a school be lawfully in session on a legal holiday? Name the legal holidays in this

State? When is a district entitled to more than one quota? How many quotas may a district receive? On what basis are quotas apportioned to cities? What is the amount of a quota?

After district quotas have been apportioned, how is the other part of the State funds apportioned? Are Indians on reservations included in the population? How is this apportionment made in counties containing a city? For what purpose must school moneys apportioned by the Commissioner of Education be used? What is the penalty for using them otherwise?

For what reasons may a school district be excluded from participating in an apportionment? How may an allowance be made in such cases? If the apportionment has been made, how may the allowance be made? What authority has the Commissioner of Education in cases where a district is not entitled to a quota by reason of having employed an unqualified teacher? How may that which has been wrongly apportioned be reclaimed? What disposition is made of such money when recovered? If such money has been expended and cannot be reclaimed, what should be done? What is done with the money thus deducted?

What is the remedy when a school district has not received its just apportionment? What if this fund is insufficient? With what officers should the Commissioner of Education file a certificate of his annual apportionment? What certificate should he file of supplemental apportionments? When does the law provide that school moneys shall be payable? To whom?

Explain the origin of Gospel and School lands. How was the revenue derived from this source used? What amount was realized in 1904? How many counties now receive revenue from this fund?

## CHAPTER XVII

### STATE SCHOOL MONEYS — (*Continued*)

#### APPORTIONMENT BY SCHOOL COMMISSIONERS

[SEE ARTICLE 2 OF TITLE II]

**Date of Apportionment.**— The school commissioners of each county are required to meet at the county seat of their respective counties on the third Tuesday of March in each year, for the purpose of apportioning and dividing the State and other school moneys.

**To Set Apart District Quotas.**— The commissioners should first set apart to each school district under their jurisdiction the district quotas apportioned to such districts by the State Superintendent. They should also set apart to each school district which did not share in the apportionment of the previous year, such sum as the State Superintendent shall have allowed it.

**Unexpended Moneys in Hands of Supervisors.**— Commissioners should obtain from the treasurer of the county a report of the unexpended moneys which were in the hands of the supervisors of the various towns in the county on the first Tuesday of March preceding, and which

were applicable to the payment of teachers' wages and for library purposes. The amount of this money, if for teachers' wages, should be added to the amount apportioned to the county on the basis of population by the State Superintendent; if library money, it should be added to the amount apportioned by the State Superintendent to the county for library purposes. Any school district which does not use all moneys paid to the supervisor by the county treasurer for teachers' wages and libraries before the first day of March next following the date on which it was apportioned by the commissioners, forfeits such unexpended moneys. These moneys are not paid by supervisors to the county treasurer or any other officer, but are retained by them and placed to the credit of the districts to which they were first apportioned; but in the next apportionment by the school commissioners, the amount of such moneys is, therefore, deducted from the amount apportioned to such district.

**Apportionment of Fines Held by County Treasurer.** — The school commissioners shall also obtain from the county treasurer a report of the amount of money paid to him from fines and penalties or obtained from any other source for the benefit of the schools of any town or for any

district in the county. If any such money has been received by the county treasurer for a school district it shall be set aside by the commissioners and credited to such district. If such money has been received for the schools of a town, then it shall be placed to the credit of such town and shall be apportioned to school districts of such town with the other school moneys belonging to the town, and shall be used to pay the salary of teachers.

**Apportionment on School Attendance.** — The money apportioned by the Commissioner of Education to the counties of the State on the basis of population, is re-apportioned by the commissioners to the *school districts* of the county on the basis of attendance of pupils. The unexpended money in the hands of supervisors and the amount received from fines, etc., as explained in the preceding two paragraphs, are apportioned in the same manner.

**How Such Money Is Apportioned.** — To determine the amount due each district the following steps should be observed: First, divide the total amount to be apportioned on this basis by the

aggregate attendance of the pupils of lawful age of all the districts in the county. This gives the amount to be apportioned on each day's attendance. Second, multiply this amount by the total number of days' attendance of all pupils in any school district, and the result will be the amount of money to be apportioned to such district.

**School Attendance on Which Apportionment is Based.** — The attendance of all persons residing in the district who are between the ages of five and eighteen years, and of all children over four years of age who have attended a free kindergarten supported by the district, is the attendance upon which school money is apportioned.

This attendance is obtained from the records kept by teachers in school registers. The total number of days' attendance of each district is reported by trustees in their annual report to the commissioners, and from these reports commissioners obtain the aggregate attendance for each district and for the county.

**Payment of Money Apportioned to Joint Districts.** — In a joint district which lies in one county, the money due to such district is paid to the supervisor of the town in which the school-house is located. In a joint district which lies in two or more counties, a report must be filed by

the trustees for that portion of the attendance from each county. Apportionments are made from each county in which the district is located, and are based upon the aggregate attendance of resident pupils of the respective counties. The district quotas of joint districts are apportioned by the Superintendent for the school commissioner district in which the school-house is situated, and are paid to the supervisor of the town in which the school-house is located. The money apportioned on aggregate attendance for pupils from counties in which the school-house is not situated, is paid to the supervisor of the towns in which such pupils reside and which form a part of the joint district.

**Commissioner's Certificate of Apportionment.** — After having completed their apportionment, commissioners should make and sign two certificates showing the amount apportioned to each school district and part of a district, also the towns in which the districts are located and the source from which each item was derived. One of these certificates should be immediately filed with the county treasurer and the other with the State Superintendent of Public Instruction.

**Commissioners' Certificate to Supervisors.**— The commissioners should immediately after



making an apportionment file with each supervisor, in their respective districts, a statement showing the amount apportioned to each town and the portions which such supervisors should pay to each school district or part of a district for library purposes and the salary of teachers.

**Filing Certificate of Apportionment.** — Upon receipt of the commissioner's certificate of apportionment, supervisors should make a copy thereof for their own use, and each should file the original in the town clerk's office of his town.

**Correcting Erroneous Apportionment.** — If commissioners, through any error, have apportioned to any district a larger or a smaller share of money than it should receive, the commissioners, with the approval of the State Superintendent of Public Instruction, may correct such error in their next annual apportionment.

**Districts Entitled to Share in Apportionment.** — No district is entitled to share in the apportionment of school moneys unless the trustees' report for the preceding school year shows that a school was maintained in the district and taught by a qualified teacher for at least 160 days, inclusive of legal holidays, and of attendance upon teachers' institutes — which shall not exceed three weeks.

**Payment of School Moneys to Supervisors. —** After the supervisor has given the required bond and the county treasurer has received the school money from the State Treasurer, such money is paid by the county treasurer to the supervisors of his county, who disburse it as required by law.

For further information, see chapter on "Supervisors, County Treasurers, etc."

### REVIEW QUESTIONS

When do school commissioners apportion school money? What moneys should they first set apart? How do commissioners ascertain the amount of unexpended moneys in the hands of supervisors? What is done with this money? How may a district forfeit part of its money? Are these moneys returned by supervisors? How are such cases adjusted? How do commissioners ascertain the amount of fines and penalties? How should records of these matters be kept? How should such moneys be apportioned?

What moneys are apportioned on the basis of attendance of pupils? What is the first step in apportioning money on this basis? The second? What constitutes the attendance of a district upon which money is apportioned? How is this attendance officially obtained by commissioners?

Explain fully how money is apportioned to joint districts. What certificate must the commissioners file with the county treasurer and the State Superintendent? What statement should a commissioner file with supervisors of the towns of his district? What should supervisors do with such statements? How may an erroneous apportionment be corrected? What school districts are entitled to share in an apportionment? What districts are not? From whom does the county treasurer obtain the school money? To whom does the county treasurer pay it? What does that officer do with it?

## CHAPTER XVIII

### COMPULSORY EDUCATION LAW

[SEE TITLE XVI]

**The Act of 1874.**— On May 11, 1874, the State legislature passed a Compulsory Education Law, which went into effect January 1, 1875. The burden of enforcing the provisions of this act was placed upon trustees. Little attention was given to the measure, and it was never enforced to any extent in any part of the State. After remaining a dead letter upon the statute books for twenty years, the act was superseded by chapter 671 of the Laws of 1894, the provisions of which will be presented in this chapter.\*

**Terms Defined.**— The terms "*school authorities*" and "*person in parental relation to a child*" occur so often in this measure that a complete knowledge of their meaning is necessary, in order to have a clear understanding of the provisions of this law.

"*School Authorities,*" wherever used in this act, means the trustees or boards of education, or any other officers known by any name whatever whose

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\* A law taking effect September 1, 1904, provides for the compulsory education of Indian children on the Indian reservations. This law is modeled after the general compulsory education law and is quite similar to it in all respects. See chapter 424, Laws of 1904.

duties are the same as those of trustees or boards of education of a city, a union free-school district, a common-school district, or any other district created by special act of the State legislature.

*“Persons in Parental Relation to a Child.”* — This term, whenever used in this act, means those persons who have the lawful care, custody, and control of children. The term includes parents, guardians, or any other persons standing in such capacity, whether one or more.

**Who Shall Attend Upon Instruction.** — Children between eight and fourteen years of age, and every child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service, must attend upon instruction as many days annually during the period between the first days of October and the following June as the public school of the district or city in which such child resides shall be in session during that period.

Every boy between fourteen and sixteen years of age who is engaged in any useful employment or service in a city of the first class or a city of the second class, and who does not hold either a certificate of graduation from the public elementary school or a certificate of the completion of an elementary school course issued by the Commissioner of Education, or a regents' pre-academic certificate, must attend the public evening schools of such city, or other evening schools offering an equivalent course of instruction. Such attendance must be for a period of not less than six hours each week for at least sixteen weeks each year.

**Where Children May Attend Upon Instruction.**

— This law does not prescribe that children shall attend *public schools*. It provides that they shall *attend upon instruction*. Such attendance upon instruction may, therefore, be in a public school, a private school, or at home.

**Character of Instruction.** — When children attend elsewhere than at a public school, the instruction given must be substantially the same as that given to children of like age in the public schools in the city or district in which such children reside. The number of hours' attendance shall be the same as that required in the public school of the district in which such children reside. No greater allowance for holidays, vacations, etc., shall be made upon such attendance than is allowed in the public schools of the district in which such children reside.

**Duty of Parents, Guardians, etc.** — The law makes it the duty of every parent, guardian, or other person standing in parental relation to a child or children between the ages of eight and sixteen years, to require such child or children to attend upon instruction as required by law, provided such child or children are in proper physical and mental condition to attend school. If parents or other persons are unable to compel such child or children to attend upon instruction, they must file proof by affidavit to that effect with the school authorities of the city or district.

**Parent or Guardians Guilty of Misdemeanor, etc.**

— Any parent, guardian, or other person in parental relation to a child or children, who fails to require

them to attend upon instruction as required by law and who does not file proper proof with the school authorities of his inability to compel such attendance, is guilty of a misdemeanor. For the first offence a fine not exceeding \$5 may be imposed. Each subsequent offence is punishable by a fine not to exceed \$50, or by imprisonment not to exceed thirty days, or by both such fine and imprisonment. No provision having been made by this act as to what should be done with a fine in this case, it has been held that it should go, when paid, into the county treasury.

**Unlawful Employment of Children.** — It is unlawful for any person, firm, or corporation to employ any child under the age of fourteen years for any purpose any part of the term during which the public schools of the district in which such child resides are in session.

It is also unlawful to employ any child between fourteen and sixteen years of age who does not possess a certificate showing that such child during the school year immediately preceding his fourteenth birthday attended the public schools, or a school having an equivalent elementary course for not less than 130 days, and that such child can read and write easy English prose and understands the fundamental operations of arithmetic. Under the factory law a child must understand arithmetic up to and including frac-

tions. This certificate must be signed by the superintendent of schools or by the principal or the principal teacher of the district or city in which such child resides, or by the principal or principal teacher of the school which such child attended, or by such officer as the school authorities may designate.

It is also unlawful to employ in a city of the first class or of the second class any child between fourteen or sixteen years of age who has not completed such course of study as the public elementary schools require for graduation therefrom and who does not hold either a certificate of graduation from the public elementary schools or a certificate of the completion of a prescribed course of study in an elementary school issued by the State Department of Education or a regents' pre-academic certificate. But a boy between fourteen and sixteen years of age may be legally employed in cities of these classes if he has been in attendance at an evening school for not less than six hours each week for such number of weeks as will, when taken in connection with the number of weeks such evening school will be in session the remainder of the year, make a total attendance on the part of such boy in such evening school of not less than six hours per week for a period of at least sixteen weeks. School authorities are required to issue certificates to boys in attendance at such evening schools once each month

and at the close of the session of such evening school. These certificates must be signed by the school authorities or by school officers designated by them for that purpose. The employer of boys between fourteen and sixteen years of age in either class of these cities must display such certificate in the place where such boy is employed and shall exhibit it whenever requested to any attendance officer, factory inspector, or representative of the police department.

**Penalty for Unlawful Employment.** — Any person, firm, or corporation that employs any child contrary to the provisions stated in the preceding paragraph shall forfeit \$50 for each offence. This fine shall be paid to the treasurer of the city or village or to the supervisor of the town in which the offence occurs, and must be added to the public school moneys of the city, village, or district in which the offence occurs.

**Record of Attendance by Teachers.** — The teacher of every public school is required to keep an accurate record of attendance of all children between the ages of eight and sixteen years. This record must show the attendance each day by the year, month, day of the month, and day of the week, and the number of hours thereof each day. Teachers of private schools are also required to keep such record of attendance. A record of attendance upon instruction must also



be kept of children who do not attend public or private schools, but who are instructed at home.

These records must also be kept open to be inspected by any attendance officer or other person appointed by the school authorities of the city or district. Teachers must also answer all reasonable inquiries relative to such records. A willful refusal or neglect to answer any such inquiry is a misdemeanor.

It is important that all records of attendance shall be kept with great care, as in cases taken to the courts the school register will be the principal documentary evidence as to the attendance of pupils.

**Attendance Officers.**—In each city, and in each union free-school district or common-school district including in whole or in part an incorporated village, the school authorities of such city or district shall appoint as many attendance officers as such board shall deem necessary for the proper enforcement of this attendance act. Such board may also at any time remove such attendance officers. Boards must also fix the compensation of these officers, define their duties, and establish rules and regulations for their guidance. The supervision and enforcement of this act is

placed in the hands of the superintendent of schools in such cities and districts.

The town board of each town must also appoint as many attendance officers for their town as, in the judgment of such board, shall be necessary for the proper enforcement of this act. The jurisdiction of such officers extends over all districts except those mentioned in the preceding paragraph. A town board in appointing attendance officers can not limit the jurisdiction of such officers to specific school districts. The town board shall fix the compensation of such officers, which shall be a town charge.

School commissioners approve and have the power to remove from office attendance officers appointed by town boards.

A trustee can legally hold the position of attendance officer. The Commissioner of Education has ruled that as the act is silent as to the term of office of town attendance officers, town boards must make such appointments annually on or before the first of October.

**Arrest of Truants.** — Attendance officers have authority to arrest at any time, without warrant, any child between eight and sixteen years of age who is then a truant from instruction upon which such child is lawfully required to attend.

In case any child is thus arrested, the attendance officer must forthwith take such child to his home, or to his teacher; or in case the child is an habitual truant, the officer must take him before a police magistrate, who may commit him to a truant school or to some similar institution. After each arrest it is the duty of the attendance officer to report the disposition made by him of the child, to the school authorities of the district where such child was required to attend school.

**Truant Schools.** — The school authorities of any city or school district may establish schools or set apart separate rooms for children who are habitual truants, or who are insubordinate while in attendance, or who are irregular in their attendance; and they may provide for the confinement, maintenance, and instruction of such children in such schools. If the school authorities of any city or school district do not establish a truant school, they may make a contract with any other city or school district having a truant school, for the confinement, maintenance, and instruction of their truant children.

**Commitment.** — When the persons in parental relation to a child give their written consent, such child may be confined and maintained in a truant school; or in a private school, an orphans'

home, or similar institution controlled by persons of the same religious faith as the persons in parental relation to the child, for a period not to exceed two years. No child can be committed after he is 16 years of age.

If the persons in parental relation to the child refuse their consent, the child may be proceeded against as a disorderly person, and, upon conviction, must be sentenced to be confined and maintained for the remainder of the current school year either in a truant school or in a private school, an orphans' home, or similar institution.

No persons convicted of crimes or misdemeanors other than truancy can be committed to any truant schools.

**Expenses of Commitments — Where Chargeable.** — The city or village employing a superintendent of schools must pay the expense attending the commitment and cost of maintenance of any child committed by them to a truant school.

In all other cases such expense and costs are a county charge.

**Industrial Training.** — In every truant school established industrial training must be furnished.

**Excuses for Absence and Tardiness Required.** — The State Commissioner of Education has ruled that every child subject to the provisions of the compulsory attendance law may be required to fur-

nish a satisfactory explanation for absence or tardiness, and has held that sickness of the child, sickness in the family requiring the services of the child, or some urgent necessity, shall be deemed the only ordinary excuse for such absence or tardiness.

**Assistants.** — The State Superintendent has authority to appoint as many inspectors for the enforcement of this law as he shall deem necessary. The attendance division has general charge of this work.

**Withholding State Funds.** — The State Superintendent has authority to withhold one-half of the public school money from any city or district which willfully omits or refuses to enforce the provisions of this act. Before this power is exercised, due notice must be given to such city or school district authorities. When such city or district complies, however, with any provision of law which may not have been enforced, and for non-compliance with which any money has been withheld, the Commissioner of Education shall pay over to the authorities of such city or district the amount so withheld.

## REVIEW QUESTIONS

When was the present compulsory attendance law enacted? What compulsory act preceded this? Why was it not enforced? Define "school authorities," "persons in parental relation to a child."

Into what three classes in respect to age may children be arranged who are required to attend upon instruction? Why is the term "attend upon instruction" used instead of "attend school?" For what period must children between 8 and 12 years of age attend school? Between 12 and 14 years? During what part of the year must this attendance occur? Why? What must be the character of the attendance? Can absence for sickness, holidays, vacations, etc., be counted part of the required eighty days? When must children between 14 and 16 years of age attend upon instruction? Must the attendance be at a public school? Where may it be? When children are instructed elsewhere than at a public school, what must be the character of such instruction? The daily period of instruction? What about allowance of holidays, etc.?

What is the duty of persons in parental authority? If unable to compel children in their care to attend upon instruction, what must they do? When is a parent or guardian guilty of a misdemeanor? What is the penalty for the first offence? Each subsequent offence? When fines are collected, to whom should they be paid? When is it unlawful to employ children between 8 and 12 years of age? Between 12 and 14 years? By whom must a certificate of attendance be signed? What is the penalty for unlawful employment of children? What disposition is made of a fine thus collected?

What record of attendance must teachers keep? What must such record show? Are the teachers of private schools and those employed in homes of children required to keep such record? To whom should this record be open for inspection? What is the penalty imposed upon teachers who refuse to answer reasonable inquiries relative to such records?

For what school districts do the school authorities appoint attendance officers? How many may they appoint? Who determines the compensation of such officers? By whom may they be removed? Who is charged with the duty of enforcing the law in such districts or cities?

For what districts may town boards appoint attendance officers? How many? Who fixes their compensation? What is their jurisdiction? May town boards in appointing such officers limit their jurisdiction to certain school districts? Are trustees eligible to hold this office? Who may remove these officers from office? What authority have attendance officers to arrest truants? When a truant is arrested what must the officer do with such truant? After such arrest what report must the attendance officer make? To whom? How may truant schools be established? What three classes of pupils may be confined in such schools? What power have school authorities to contract for the confinement and maintenance of truants? With the written consent of the parents or guardian, where may a truant be committed? When the person in parental authority refuses to consent, what action should be taken? What persons cannot be committed to truant schools? When is the expense of such commitment a city or village charge? When a county charge? What instruction must be given in all truant schools?

What is the ruling of the State Superintendent as to what constitutes a satisfactory excuse for absence or tardiness? What help may the State Superintendent employ to assist in enforcing this law? How many are now employed? When may the State Superintendent withhold public money from a district? What portion may be withheld? What action must be taken first? When must the State Superintendent pay over moneys thus withheld?

## CHAPTER XIX

### SCHOOL AND PUBLIC LIBRARIES

[SEE TITLE XIII]

**Apportionment of Library Moneys.** — On account of the unification act it became desirable to unite the library funds which had heretofore been distributed by the two former educational departments. The legislature, therefore, now makes but one appropriation for libraries. This appropriation is for an amount equal to that given the two old departments and the method of distribution is such that a school may draw from this fund as much money as it was allowed heretofore from both funds. The method of this apportionment will be found on page 216. The method of distributing the money is as follows:

An apportionment is made on or about the first of each month based on the applications received during the previous month. This apportionment is certified to the comptroller.

The state treasurer upon the warrant of the comptroller pays to each county treasurer, excepting in the counties comprising the city of New York, an amount equal to that apportioned to all of the schools in his county.

The Commissioner of Education then certifies to the county treasurer the schools to which money is due and the amount due to each. Upon receipt of this certificate from the Commissioner of Education the county treasurer pays the allotment to each of the schools entitled to receive the same.

In the city of New York all money due the city is paid to the city chamberlain and all money due to private academies is paid directly to the treasurer of the academy.



**Commissioner of Education Has General Supervision.** — The Commissioner of Education has power to establish, modify, or abolish any regulation for the expenditure of school library money and the administration and care of school libraries. All provisions of law and rules of the Commissioner of Education for the management of district libraries shall apply to the management of school libraries until modified as directed by law.

**Expenditure of Library Money.** — No part of the library money of a district — either that raised by the district, apportioned from State funds, or received from any other source — shall be used for any other purpose than for the purchase of books, and such books must be approved by the Commissioner of Education before being purchased.

**Commissioner May Withhold Money.** — The Commissioner of Education may withhold from any city or district its share of *public school moneys*, for expending library money for any other purpose than the purchase of approved books, or for any other willful neglect or violation of law or of the regulations which the Commissioner has adopted.

**Librarian.** — The board of education of a union free-school district and also the board of trustees of a common school district shall appoint as librarian one of the teachers in the employ of their district. Such librarian and trustees or board of education, as the case may be, shall be responsible for the safe-keeping and care of the books in the library of their district. They shall annually, and oftener if called upon, make a report as the Commissioner of Education shall direct concerning such library.

**Use of School Library.** — A school library cannot be used as a circulating library. It must be kept in the school building at all times and it forms a part of the school equipment. Pupils, school officers and teachers, however, may, when the rules of the Commis-

sioner of Education permit, and with the consent of the librarian, borrow any book in said library not needed for reference in the school-rooms. Such persons may not borrow more than one book at a time nor keep such book more than two weeks.

**Books of Which Library Shall Consist.** — School libraries shall consist of reference books to be used in the school-room, suitable supplementary reading-books for pupils, books relating to the branches of study being pursued in the school, and pedagogic books for the assistance of teachers. It is a ruling of the State Department to allow a reasonable number of duplicate books to be purchased for supplementary reading. The exact number cannot be fixed. The State Superintendent will not approve a list including several copies of a text-book upon any subject for the use of pupils. This would really be furnishing free text-books, which is not permissible.

**Books May be Transferred to Free Library.** — The books or library property of any city or union free-school district may be transferred by the board of education of such city or union free-school district to any township or other free public library under State supervision, upon condition that such library shall remain free to the people of such city or district. Such city or district may also aid by tax or in any other way in the establishment of such free public library. The same action may be taken by any common-school district in the State when a majority of the legal voters present and voting at any meeting, duly convened, shall so direct.

**Release of School Authorities.** — The approval of such transfer should be obtained from the Regents under their seal, and a receipt of such transfer should be taken from the officers of the free public library to whom the transfer is made. Such approval and such receipt shall thereafter relieve the school authorities of such districts or cities from further responsibility for said library and property transferred.

How is library money now apportioned? By whom? On what basis? When? How does the money reach the county treasurer? The school districts?

For what purpose must library money be expended? What books may be purchased? What is the penalty for expending library money for other purposes than for books approved by the State Superintendent? What for failing or refusing to comply with the regulations of the State Superintendent? By whom is the librarian of a union free school appointed? Of a common school? Who must be selected librarian in either case? Who is responsible for the care and safe-keeping of a library? What reports must be made to the State Superintendent?

May a school library be used as a circulating library? Where must the library be kept? Who may borrow books from such library? When? For what period? How many books at one time? Of what books must such library consist? Of what books may duplicates be purchased? How many? May duplicate text-books be purchased for pupils? Why? To whom may the library of a city or a union free-school district be transferred? Upon what conditions must such transfer be made? By whom is such transfer made? When may a common-school district make such transfer? What aid may a city or a school district give to the establishment of this project? What approvals to such transfers should be obtained? What receipt? What is the effect of such approval and such receipt?

## CHAPTER XX

### COURSES OF STUDY, SUBJECTS INCLUDED, ETC.— PHYSIOLOGY AND HYGIENE.

**Authority to Adopt Courses of Study.**— Under subdivision 11 of section 47 of article 6 of title 7 of the Consolidated School Law of 1894, the authority to prescribe courses of study for common-school districts is given to the trustees of such districts.

Under subdivision 3 of section 15 of article 4 of title 8 of the same act, the authority to prescribe courses of study for union free-school districts is given to boards of education of such districts. (See chapter 25, "Methods of instruction and program of study.")

**Subjects That Must be Included in Such Courses.**— There is no direct provision of law naming the subjects that shall constitute courses of study prepared by trustees and boards of education. The only express provision of law requiring that any subject shall be taught is the one requiring that physiology and hygiene with special reference to the effects of stimulants and narcotics shall be taught in all public schools.

Section 3 of title 16 of the Compulsory Education Law, provides that the children who are required by that act to attend upon instruction shall be taught in the branches of *reading, spelling, writing, arithmetic, English Grammar, and geography.*

The trustee or trustees of each common-school district and the board of education of each union free-school district must include in their courses of study these subjects and in addition thereto the subject of physiology and hygiene as required by law, and such subjects must be taught in all common schools, union free schools, or other public schools created by special act.

**Other Subjects May be Included.**— Trustees of common-school districts have the authority to include in their course of study other subjects not named in the preceding paragraph. In arranging such courses they should exercise proper discretion. If trustees abuse the power granted them in this respect and include subjects not practical and not for the best educational interests of the district, an appeal should be taken to the State Superintendent, who has the authority to order that such subjects shall not be included in a course of study.

**Authority of Teachers.**— A teacher has no authority in arranging courses of study and can

not direct what studies shall be pursued. This is a matter resting solely with trustees.

In most common-school districts the task of preparing a course of study is referred by trustees to teachers, and teachers prepare such courses of study under direction from trustees.

**Authority of Parents.**— Parents cannot direct what subjects shall be included in a course of study or what subjects their children shall pursue. When a child is admitted to any public school such child must pursue the course of study prescribed by the legal authorities of such school.

**Vocal Music.**— The law provides that the board of education in each city and in each union free-school district *may* provide for free instruction in vocal music in all the schools under their management. Boards of education are not *required* to include the subject of vocal music in their course of study, but *may* include it if they decide by a majority vote to do so.

The Superintendent of Public Instruction may provide instruction in vocal music for all teachers' institutes held in the State under his supervision. The course of study in normal schools may also embrace the subject of vocal music. No express provision is made by law for teaching this subject in common schools; but under

the general authority of trustees to prescribe the courses of study for such schools, trustees may include the subject of vocal music. (Article 8, title 15.)

**Drawing.**— The board of education of each city is required by law to provide for free instruction in industrial or free-hand drawing in at least one department of the schools under the charge of the board. The board of education of each union free-school district is also required by law to provide free instruction in this subject in all schools under their charge, unless excused from so doing by the State Superintendent of Public Instruction. State normal schools are also required to include this subject in their course of study.

Whenever the city authorities of any city shall direct that evening schools shall be established, or when the qualified voters of any union free-school district duly convened shall so direct and shall make provision for their maintenance, for the purpose of giving free instruction in *industrial drawing*, then the board of education of such city or district is required by law to cause evening schools to be organized as directed. The authorities of cities and the electors of union free-school districts have power to raise the necessary

funds for the purpose of supporting such schools. (Article 7, title 15.)

The trustees of common-school districts are not expressly authorized to include this subject in their course of instruction, but under their general powers conferred by law, they may make it a part of their course of study. As all candidates for certificates above the third grade are required to pass an examination in this subject, and as all teachers in attendance upon normal schools, training classes, and teachers' institutes receive instruction in the subject, and for the further reason that the best educational opinion of the day is that such subject should be taught in all schools, therefore, trustees of common-school districts should include drawing in their course of study, although not required by law to do so.

**Kindergarten.**— The school authorities of any union free or common school district in any county having less than 1,000,000 inhabitants, may establish one or more free kindergarten schools. They are not required by law to provide these schools but may act according to their judgment in the matter.

The money for the support of these schools is raised in the same manner as money for the



support of all other schools. No child below the age of four years can lawfully be admitted to these schools, and the school authorities of each school may fix the highest age limit for those who may attend.

The teachers employed in these schools must be licensed under such regulations as the State Superintendent prescribes, and each district employing one or more kindergarten teachers is entitled to a district quota for each of such teachers employed. The attendance of children between four and five years of age may be included in the aggregate attendance of all pupils residing in the district upon whose attendance public money is apportioned. (Article 9, title 15.)

**Industrial Training.**— Boards of education in cities, in union free-school districts, and in villages, and trustees of public school districts have authority to establish and maintain a department or departments in the schools under their charge for industrial training and for teaching and illustrating the manual or industrial arts and the principles underlying the same. For this purpose they may purchase material, employ instructors, and maintain such shops as in their judgment are deemed necessary, whenever

the proper authorities shall authorize a tax for such purpose.

All normal schools in the State are required by law to give instruction in this subject to the extent required by the State Superintendent. (Article 10, title 15.)

#### PHYSIOLOGY AND HYGIENE

[SEE ART. 6 OF TITLE XV]

**Character of Instruction.** — The law provides that the *nature* of alcoholic drinks and other narcotics and *their effects* on the human system shall be taught as thoroughly as other subjects are taught in all schools under State control or supported in whole or in part by the public money of the State. Such instruction must also be given in schools connected with reformatory institutions. This instruction must be given in connection with the various divisions of physiology and hygiene.

**Who Shall Receive Instruction.** — The pupils in all schools described in the preceding paragraph who are *below* the second year of the high school and *above* the third year of school work, counting from the lowest primary, but not including the kindergarten, or who are in corresponding classes in ungraded schools, *must study*

and *must be taught* this subject from suitable text-books. All pupils who come within these provisions must be supplied with suitable text-books.

All pupils in the three lowest primary school years, not including kindergarten, must receive oral instruction.

**Period of Instruction.** — The ruling of Superintendent Skinner on the subject is as follows :

All pupils above the third year or grade, and below the second year of the high school, must study the subject from suitable text-books *for not less than three lessons a week for ten or more weeks, or the equivalent of the same in each year.* This requires *thirty lessons* during the school year, which may be given at any time in the discretion of the local school authorities. Any plan may be adopted which will complete thirty lessons within the school year.

Where there are nine or more years below the high school, the instruction may be omitted above the eighth year and below the high school.

**NOTE.** — All pupils in the lowest three primary (not kindergarten) school years shall be instructed in this subject *orally for not less than two lessons a week for ten weeks or the equivalent of the same in each year.* This requires *twenty lessons during each school year*, arranged in the discretion of local school authorities.

**Text-Books.** — All text-books used must be graded to the capacities of fourth year, intermediate, grammar, and high school pupils, or to corresponding classes in ungraded schools. For students below the high-school grade, all text-books must give at least one-fifth their space, and for pupils of the high-school grade, not less than twenty pages, to the "nature and effects of

alcoholic drinks and other narcotics." This subject must be considered in connection with each division of physiology and hygiene. Pages in a separate chapter at the end of a book can not be considered in determining the minimum pages which a book must contain.

A text-book which does not comply with these provisions can not legally be used.

**Regents' Examinations.** — All Regents' examinations in physiology and hygiene must include a proportionate number of questions on the nature of alcoholic drinks and other narcotics and their effects on the human system.

**Instruction in Normal Schools, Institutes, and Training Classes.** — All normal schools in the State, teachers' institutes, and training classes must give proper time and attention to the best methods of teaching this subject.

**Duty of Teacher.** — It is the duty of every teacher to teach this subject as required by law, and the State Superintendent, on satisfactory evidence that any teacher has willfully refused to teach the subject, should revoke the license of such teacher.

No teacher can receive a certificate to teach who does not pass a satisfactory examination in the subject and the best methods of teaching it.

**Apportionment of Public Money.** — Before any city can receive any of the public money of the State, the superintendent of schools of such city must file an affidavit with the city treasurer or chamberlain, and a copy thereof with the State Superintendent of Public Instruction, that he has made an investigation into the facts and that to the best of his knowledge and belief all the provisions of this law have been complied with in the schools under his supervision.

A similar affidavit must be made by the president of the board of education of each union free-school district and by the trustees of each common-school district and filed with the school commissioners having jurisdiction before such schools can receive public money from the State.

**Duties of School Officers.** — The law provides that local school authorities must provide the necessary facilities and a definite time and place for this branch in the regular courses of study. Under this provision of law the State Superintendent has ruled that where school patrons are unable or unwilling to buy necessary text-books the local authorities may purchase such books at the expense of the district.

**Withholding Public Money.** — Where it is established to the satisfaction of the State

Superintendent, upon appeal, that any city or school district has failed to comply with the provisions of this law, he should withhold the public money of such city or district until it meets the requirements of the law.

**Religious Exercises in Schools.** — Religious exercises of any character can not lawfully be conducted in any public school. No pupil can lawfully be compelled to remain in school during a religious exercise, nor can a pupil be compelled to take part in any religious exercise. No part of the time prescribed for a public school to be in session can lawfully be devoted to religious exercises of any kind. Reading the Bible or repeating a prayer is a religious exercise. These statements are based upon the uniform rulings and decisions of the State Superintendents of New York State.

In many cases all the patrons of a school are willing that religious exercises should be held. In any such case, it has been the policy of the State Department not to interfere in any way with the holding of such exercises.

Where a portion of the patrons of a school desire the observance of religious exercises and pupils assemble in the school-room previous to the regular hour for opening school, and no

objection is made by any taxable inhabitant of the district, such exercises may be conducted, provided all pupils are permitted to act their pleasure in regard to attendance thereon, and, provided the exercises are not continued beyond the hour at which the school should regularly convene. Whenever any dissensions would arise from conducting religious exercises on this plan, such exercises should not be held.

### REVIEW QUESTIONS

Who have the authority to adopt courses of study for common-school districts? For union free-school districts? Does the law provide what subjects shall be taught in common schools? What *one* subject *must* be taught? What subjects does the compulsory education act provide shall be taught to children who are required to attend upon instruction? What subjects, then, must be included in courses of study? In what schools must such subjects be taught? May other subjects be included? What is the remedy if trustees include subjects unreasonable, impracticable, etc.? What authority have teachers in arranging courses of study? What authority have parents? Can parents direct what subjects their children shall pursue in a public school?

In what schools does the law provide that vocal music may be taught? Are boards of education required to include such subject in their course of study? Where may the Superintendent provide that instruction in vocal music may be given? May it be included in normal schools? May trustees include this subject in a course of study for common schools?

What is the law in relation to teaching industrial or free-hand drawing in cities? In union free schools? State normal schools? When must boards of education in cities maintain evening schools to give instruction in this subject? In union free schools? How shall funds be

raised for supporting these schools? Are trustees of common-school districts directed by law to include this subject in their course of study? May they include it? Why?

What schools may establish kindergartens? Is the law mandatory or optional? How is money for the support of these schools raised? How must teachers in these schools be licensed? Does the employment of such teachers entitle a district to a quota? What is the law in relation to attendance of pupils?

What districts may under the law maintain schools or departments for instruction in industrial training? What powers have school authorities to purchase material for this purpose? What is the law in relation to instruction in this branch in normal schools?

In what schools must the subject of physiology and hygiene be taught? What is the provision of law relative to teaching about alcoholic drinks? What pupils must study the subject in graded schools? In ungraded schools? What about kindergarten pupils? What pupils must use text-books? What pupils must receive oral instruction? What period of instruction from text-books must each pupil receive? What is the ruling of the State Superintendent on this question? What is his ruling relative to oral instruction? How must text-books be graded? What portion of text-books for pupils below the high school grade must be given to this subject? For pupils above the high school grade? How must matters relating to this subject be distributed in text-books? What is the law relating to pages on this subject which are put at the end of a book? What are the requirements in relation to Regents' examinations? What in relation to normal schools, institutes, and training classes? What is the duty of a teacher in relation to teaching this subject? What is the duty of the State Superintendent in case a teacher refuses to teach the subject? What is required of a teacher under this law in order to obtain a certificate? What action must be taken by city authorities before cities can receive any of the State funds? By union free schools? By common schools? What is the duty of school officers under this law? Under what circumstances may school authorities purchase text-books? What is the duty of the State Superintendent when any city or school district fails to comply with any of the provisions of this law?



Can religious exercises be, lawfully, conducted in any public school? Can pupils be required to remain in school during a religious exercise? Can a pupil be compelled to take part in any religious exercise? Can any portion of the time prescribed for public school work be devoted to religious exercises? Is reading the Bible or repeating a prayer a religious exercise?

Under what conditions might religious exercises be conducted in a public school?

## CHAPTER XXI

### TEXT-BOOKS, CODE OF PUBLIC INSTRUCTION, ARBOR DAY, FLAG LAW

[SEE ARTICLES 2, 3, AND 15, TITLE XV, CONSOLIDATED SCHOOL  
LAW]

**Adoption of Text-Books.**—In union free-school districts and cities, boards of education or bodies performing the duties of boards of education, constitute the proper authority to determine and adopt the text-books that shall be used in the schools under their jurisdiction.

In common-school districts, text-books for use in such schools must be designated by the legal voters of each of such districts at *an annual meeting*. The votes of two-thirds of all the legal voters present and voting at such meeting are necessary to adopt any text-book. As the law provides that the adoption of text-books in a common-school district shall be at an *annual meeting*, such action can not be taken at a *special meeting*.

**Change of Text-Books.**—After a text-book shall have been regularly adopted for the schools of a union free-school district or city by the

board of education of such district or city, or by any other body performing the duty of such board, it is unlawful for such board to supersede the books thus adopted by any other book within a period of five years from the date on which such books were adopted, except by a three-fourths vote of the members of such board.

In a common-school district, after a text-book has been regularly adopted it cannot lawfully be superseded within a period of five years, except upon a three-fourths vote of the legal voters of such district present and voting at an annual meeting.

After a text-book regularly adopted has been in use in a union free-school district or city for five or more years, such book may be superseded by another book, by a majority vote of the members of the board of education having jurisdiction. In a common-school district, after a text-book, regularly adopted, has been in use for five or more years, it may be superseded by another book, by a two-thirds vote of the legal voters of such district present and voting at any annual meeting.

**Penalty for Violations.**—Any person or persons guilty of a violation of the provisions stated in either of the foregoing paragraphs, is

liable to a fine of not less than \$50 nor more than \$100 for each offence.

**Fine, How Collected.**—Any tax-payer may sue any person guilty of a violation of these provisions before a justice of the peace. Such fine, when collected, should be paid to the collector or treasurer of the district in which such violation occurred, and used for the benefit of the schools of such district.

**Supplying Pupils With Text-Books.**—A meeting of a union free-school district may vote an appropriation for supplying indigent pupils with text-books. When such action is taken by a district meeting, it is the duty of the board of education to provide books for such pupils.

**Free Text-Books.**—A majority of the legal voters of a union free-school district may decide to supply the pupils of such district with free text-books. This question may be voted upon at a special meeting regularly called, or at an annual meeting when notice has been duly given that such vote will be taken. The vote must be by the ayes and noes and must be duly recorded. When the voters of a district have decided to furnish pupils free text-books, the board of education of such district must supply all pupils within ninety days with free text-books. The board of

education has authority to prescribe regulations for the care, use, and distribution of books.

## CODE OF PUBLIC INSTRUCTION

**Custodian of Code.**— The trustee or trustees of each school district are the custodians of the Code of Public Instruction of their district, and they should deliver such code to their successors in office.

**Loss of Code.** — If through the fault or neglect of any trustee, the code belonging to his district is lost or destroyed, it is the duty of such trustee to purchase a copy of the latest edition of the Code of Public Instruction and deliver it to his successor in office in the place of the copy lost or destroyed through his negligence.

**Penalty.** — Any trustee who fails to take proper care of such code belonging to the district or who fails or refuses to replace such copy when lost or destroyed through his negligence, is subject to a fine of \$25, to be sued for by the supervisors of the town in which the district is located. A fine collected from this source must be used for the purchase of books for the school library.

## ARBOR DAY.

**History.**—Arbor Day in New York was created by chapter 196 of the Laws of 1888 and has been observed annually by the public schools of the State from that date. Since the establishment of this day the school children have planted on the school grounds of the State over 246,317 trees and many plants and shrubs.

Arbor Day originated in Nebraska in 1872, and is now observed by every State in the Union.

**State Tree.**—In 1889 the vote of the school children of the State for a State tree resulted in the sugar maple's receiving a majority of all votes cast. Since that time the sugar maple has been considered the State tree.

**State Flower.**—In 1890 State Superintendent Draper requested the school children of the State to vote on Arbor Day for a State flower. One hundred and thirty different varieties received votes, and 318,079 votes were cast. The golden-rod received the greatest number of votes cast, 81,308, while the rose received 79,666 votes. As no flower received a majority of the votes cast, and as the vote for the golden-rod and the rose was so evenly divided, Superintendent Draper requested that a vote be taken on these two flowers on Arbor Day in 1891. This vote was taken,

with the result that the rose received 294,816 votes and the golden-rod 206,402. The rose is therefore considered our State flower.

**Best American Nature Poem.** — On Arbor Day of 1891 the teachers of the State, in response to a request of the State Superintendent that they express their choice by vote for the best American poem on nature or trees, selected Bryant's Forest Hymn by a majority of 156 votes. Bryant's *Thanatopsis* was second choice.

**Date.** — Arbor Day occurs on the Friday following the first day of May in each year.

**Duty of School Authorities.** — The law makes it the duty of the school authorities of every public school in the State "to observe this day properly by assembling the pupils in the school building or elsewhere for the purpose of holding, under the general direction of the city superintendent or school commissioner, exercises which shall tend to encourage the planting, protection, and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results."

**Program of Exercises.** — The State Superintendent of Public Instruction is required to prepare a program of exercises and instruction for use in the public schools on Arbor Day and to

cause the same to be distributed throughout the districts of the State.

**Distribution of Program.**—It is the duty of school commissioners and city superintendents to provide each of the schools under their supervision with as many copies as possible of the program prepared by the State Superintendent. School commissioners may deposit with each town clerk the programs for the school districts of the respective towns in their districts, and it is the duty of such clerks to deliver such programs to the school authorities of each district.

**Annual Appropriation.**—The State Superintendent recommends each year to the State legislature the amount necessary to carry into effect the provisions of law relating to Arbor Day. The amount expended in 1901 was \$1,000.

#### FLAG LAW

The legislature of 1895 passed an act making it the duty of the school authorities of each school district and city in the State to supply a United States flag, flagstaff, and other necessary appliances for each of the school-houses under their supervision. This flag should be displayed upon or near the school-house during school hours and at any other time when so directed by the school authorities.



In cities and union free-school districts this duty rests with boards of education, and in all other districts with the trustees of such districts. This matter is not left to the discretion of these officers, as the law is mandatory and a failure to comply with its provisions is sufficient cause for removal from office.

If a school-house is not supplied with a flag and the necessary appliances, or if such flag and appliances have been lost or destroyed, the trustees or board of education of the district or city in which such school-house is located should purchase a flag and appliances and levy a tax upon the district for the expense of the same. School authorities may pursue this course without being directed to do so by a district meeting.

The State Superintendent of Public Instruction is required to prepare for the use of the public schools of the State a program providing for a salute of the flag at the opening of each day of school and to provide for such other patriotic exercises as he may deem to be expedient. To also provide for the observance of Lincoln's Birthday, Washington's Birthday, Memorial Day, Flag Day, and other similar legal holidays.

## REVIEW QUESTIONS

By what authority are text-books adopted in union free-school districts? In cities? In common school districts? What vote is necessary in common-school districts? When can such vote be taken? After a text-book has been adopted in a city or union free-school district, how may such text-book be changed within a period of five years? After a period of five years? In a common-school district how may a text-book be changed within a period of five years after its adoption? After a period of five years? What is the penalty for violation of these provisions? How may such fine be collected? For what should it be used after it is collected? May a union free-school district supply pupils with text-books? When? How is it done?

Who is the custodian of the district's Code of Public Instruction? If a code is lost by the trustee, who should supply another copy? What is the penalty if the trustee refuses to do this? How must such fine be used?

When was Arbor Day created? How? Where did the day originate? When? What is considered our State tree? How was it determined? What is considered our State flower? How was it determined? Give the history of the vote on this question? What was the result of the final vote? What has been decided to be the best American poem on nature? How was this decided? When does Arbor Day occur? What is the duty of school authorities in relation to Arbor Day? Who prepares the program of exercises? How are such programs distributed? How is the expense of carrying out the provisions of this law met? What amount was expended in 1895?

State the provisions of the flag law of 1895 relative to supplying school districts with a United States flag? When should the flag be displayed? Where? Upon whom does the provisions of the law fall in union free-school districts? In all other districts? Are its provisions left to the discretion of school authorities? What is the penalty for failing to comply with its provisions? If a district has not a flag and appliances, who should purchase one? If a flag and appliances have been destroyed, who should replace them? Is a vote of the district necessary in either case?

## CHAPTER XXII

### SCHOOLS FOR COLORED CHILDREN, ORPHAN SCHOOLS, INDIAN SCHOOLS, DEAF AND DUMB AND BLIND INSTITUTIONS

[SEE ARTICLES 11, 12, 13, AND 14, TITLE XV, CONSOLIDATED  
SCHOOL LAW]

#### SCHOOLS FOR COLORED CHILDREN

**Where Established.** — Previous to September 1, 1900, the school authorities of any city or of any incorporated village, the schools of which were organized under the union free-school law or under special acts, possessed the power to establish schools for colored children. The legislature of 1900 amended the law relating to colored schools by repealing section 28 of title 15 of the Consolidated School Law. The school authorities of the cities and incorporated villages of the State are, therefore, prohibited from establishing schools for colored children. This repealing act also contained a provision that no person should be refused admission into or be excluded from any public school in the State on account of race or color.

The only school districts, therefore, in which schools for colored children may be established

are union free-school districts outside of cities and incorporated villages, and common-school districts outside of cities and incorporated villages, which are organized under special acts. Schools for colored children may be organized in these districts when the inhabitants so direct by a resolution at an annual meeting or special meeting regularly called for that purpose.

**Children Who May Attend.**— When a separate school is established for colored children in any district, the colored children residents of such district between the ages of five and twenty-one years are entitled to attend such separate school.

**How Supported.**— When separate colored schools are established in any district such schools must be supported in the same manner and to the same extent that schools are supported in such districts for white children.

**Equipment of Schools.**— Colored schools are subject to the same rules and regulations that control white schools, and the facilities for instruction in colored schools must be equal to those in the schools for white children.

**Teachers.**— The teachers employed in colored schools must be legally qualified teachers, the same as those employed in schools for white children.

## ORPHAN SCHOOLS

The schools of all the incorporated orphan asylum societies in this State, except those in the city of New York, are subject to the rules and regulations of the common schools of the city or district in which such societies are located, but such schools are under the immediate management and direction of such societies.

These schools are entitled to participate in the apportionment of the school moneys in the same manner and to the same extent, in proportion to the number of children educated therein, as are the common schools in the districts in which such societies are located.

## INDIAN SCHOOLS

**General Statement.** — There are eight Indian reservations in this State. On these reservations twenty-nine Indian schools are maintained, in which are employed thirty teachers. Each reservation has a local superintendent of schools appointed by the State Superintendent of Public Instruction. The superintendent of the Allegany and Cattaraugus reservation receives \$300 per year for his services, and in addition thereto his legitimate traveling expenses while performing his official duties and three dollars per day for certain special services. The superintendents of the

other reservations receive \$3 per day for their services and their necessary traveling expenses. The following table gives important information relative to these reservations for 1901 :

Name of Reservation	County of Location	Name of Superintendent	No. of Districts	No. of Teachers	No. of Pupils of schoolage
Alleghany and Cattaraugus .....	Alleghany and Cattaraugus .....	Wm. K. Harrison .....	16	16	500
Onondaga .....	Onondaga .....	W. W. Newman .....	1	2	130
St. Regis .....	Franklin .....	Alex. MacDonald .....	5	5	325
Shinnecock and Poospatuck .....	Suffolk .....	J. S. Raynor .....	2	2	74
Tona wanda .....	Erie .....	Chas. C. Parker .....	3	4	137
Tuscarora .....	Niagara .....	Adelaide L. Harris .....	2	2	105

**Duty of State Superintendent.**—The State Superintendent is charged with general supervision of the Indian schools. He should ascertain the needs and character of the education of the various Indian bands in the State, provide schools in such places as he deems necessary, and appoint superintendents for them. When necessary, the State Superintendent, with the concurrence of the Comptroller and Secretary of State, may cause suitable school buildings to be erected on the Indian reservations.

**Co-operation of Indians.**—The State Superintendent is charged with obtaining the co-operation of the several bands of Indians in supporting the schools established for their benefit. He is

required to visit their reservations, or delegate some representative to visit them, to discuss means of improvement and education with them in public assembly and to induce them, if possible, to donate land, material, labor, and public funds for the erection of suitable buildings.

**Protection to Title.**— When any of the Indian land shall have been given for occupancy or use for school purposes the right or title of Indians to such land should be protected. The right of the State to remove or otherwise dispose of all improvements made at the expense of the State should be reserved in all contracts.

**Public Money.**— All Indian children in the State between the ages of four and twenty-one years are entitled to draw public money on the same basis as are white children. It is the duty of the State Superintendent to cause an annual enumeration of Indian children to be made and to see that the public money to which they are entitled is devoted exclusively to their education.

**Annual Appropriation.**— For the purpose of executing the provisions of law relating to Indian schools, the legislature makes an annual appropriation from the revenue of the common-school fund. This money is paid by the State Treasurer on the warrant of the Comptroller to the order

of the State Superintendent, from time to time, as such money is needed. Special appropriations from the general fund are sometimes made by the legislature for repairs and improvements on the school property of reservations.

**Vouchers and Receipts.** — The State Superintendent is required to file in his office vouchers and receipts for all expenditures made under the provisions of this chapter.

**Report to Legislature.** — The State Superintendent is required to report annually to the legislature the condition of Indian schools. He is, therefore, authorized to require from the superintendent of schools on Indian reservations a detailed report of the condition of such schools.

#### DEAF AND DUMB AND BLIND INSTITUTIONS

**Duty of State Superintendent.** — All institutions for the instruction of the deaf and dumb and blind, and all other similar institutions incorporated under the laws of this State are under the inspection and supervision of the State Superintendent of Public Instruction. He should ascertain the expenditures of each institution, the system of instruction pursued therein, and the condition of the lodgings and accommodations of the pupils.



He should ascertain by comparing these institutions with similar institutions whether improvements in instruction and discipline can be made. For this purpose he may appoint persons to visit these institutions. He should also suggest to the directors of these institutions and to the State legislature those improvements and changes which in his judgment are deemed wise.

**Annual Report.** — The Commissioner of Education is required to make an annual report to the State legislature on all matters relating to these institutions; particularly to the condition of the schools, the improvement of the pupils, and their treatment in respect to board and lodging.

**Eligibility of Appointments of Deaf and Dumb Persons.** — A deaf and dumb person to receive an appointment as a State pupil to an institution for the deaf and dumb must possess the following qualifications: Such person must be upwards of twelve years of age and have been a resident of the State for one year immediately preceding his or her application for admission to such institution; or, if a minor, the parent or parents, or if an orphan, the nearest friend must have been a resident of this State for one year immediately preceding the application for an appointment as a State pupil.

**Eligibility of Blind Persons for Appointment as State Pupils.** — All blind persons of suitable age (no specific age required by law) who possess the same qualifications in regard to residence as deaf and dumb

candidates, may be appointed State pupils as follows:

All those who are residents of Nassau, New York, Kings, Queens, Suffolk, Richmond, Westchester, Putnam, and Rockland shall be appointed to the Institution for the Blind in New York city. Those residing in all other counties in the State should be appointed to the Batavia institution.

**By Whom Appointments are Made.** — Appointments of State pupils to any of these institutions, except the Institution for the Blind in Batavia, are made by the Commissioner of Education upon application. In making such appointments the Commissioner of Education may impose the condition, in the case of parents or guardians or friends who have sufficient means, that some portion of the expense of educating and clothing such pupil shall be borne by the parent, guardian or friend. The Commissioner also has the authority to modify such conditions whenever he deems it wise to do so. Appointments to the Batavia institution are made to the board of trustees, and must be approved by the county judge or county clerk of the county or the supervisor or town clerk of the town or the mayor of the city in which the applicant resides.

**Support of State Pupils.** — A State pupil appointed to any of these institutions must be provided with board, lodging, and tuition. The directors of

Deaf and Dumb institutions are entitled to receive \$260 per year from the State in quarterly payments for each pupil, and the Blind institutions \$250 per year in like manner for each pupil. State pupils who are children of indigent parents or guardians are supplied with clothing by the counties from which they are appointed.

The treasurer of each institution should present a bill showing the number of pupils and the time each pupil attended, to the State Comptroller for audit and payment.

This bill must be signed and verified by oath of the president and secretary of the institution. The bill is paid by the State Treasurer on the warrant of the Comptroller.

**Term of Instruction.** — The regular term of instruction for each pupil is five years, but the Commissioner of Education may extend such time not to exceed three years.

**Regulations for Admission of Pupils.** — The Commissioner of Education may establish regulations to require the admission of pupils at these institutions at regular periods.

The legislature of 1897 authorizes the Albany Home School for the Oral Instruction of the Deaf to receive deaf and dumb persons who are eligible to appointment, and who are more than twelve years

of age. The Commissioner of Education is also authorized to make appointments to this institution.

**County Must Supply Clothing.** — If a parent or guardian of a State pupil in any of the institutions for the deaf and dumb is unable to furnish such pupil clothing, the board of supervisors of the county from which such pupil was appointed must raise each year for each of such pupils the sum of \$30 for supplying clothing to such pupils. (Chapter 233, Laws of 1903.)

### REVIEW QUESTIONS

In what school districts may a board of education establish schools for colored children without a vote of the district? In what districts is a vote required before a board can establish such schools? Who are entitled to attend such colored schools? How are such schools supported? How should such schools be equipped? What teachers must be employed?

How are the schools of the incorporated orphan asylum societies related to the public school system? To what public money are they entitled? What is the duty of the State Superintendent in relation to Indian schools? When may he cause school buildings to be erected on Indian reservations? What co-operation of the Indians should he enlist? What protection to title should be given to Indians when their land is used for school purposes? What right should be reserved to the State? How should public money be apportioned among the Indian children? How should this money be expended? What amount is annually appropriated for this purpose? How is this money paid? What is done with the vouchers and receipts? What reports must be made in relation to Indian reservations? What apportionment is made by the State Superintendent?

What jurisdiction has the State Superintendent over Deaf and Dumb and Blind institutions? What knowledge of the work of these institutions should he possess? What report in relation to these institutions must be made? Who are eligible to appointment as State deaf and dumb

pupils? Who are eligible to appointment as State pupils to blind institutions? By whom are these appointments made? In making these appointments what conditions may the State Superintendent impose? How are these State pupils supported? To whom are bills for these expenses presented? In what form? By whom are they paid? What is the regular period of instruction? What extension may be granted? Who adopts the regulations for admission of these pupils? What institution was authorized by the legislature of 1897 to receive deaf and dumb pupils for instructions?

## CHAPTER XXIII

### NORMAL SCHOOL

[SPECIAL ACTS]

**Historical Sketch.** — There are eleven State normal schools in the State and one State normal college. Their location and the dates on which they were established and opened are as follows:

Location	Established	Opened
Albany.....	1844	1844
Brockport.....	1866	1867
Buffalo.....	1867	1871
Cortland.....	1866	1869
Fredonia.....	1866	1868
Geneseo.....	1867	1871
Jamaica.....	1893	1897
New Paltz.....	1885	1886
Oneonta.....	1887	1889
Oswego.....	1863	1863
Plattsburg.....	1889	1890
Potsdam.....	1866	1869

The first school at Albany was simply an experiment and was only temporarily established. It was made a permanent institution in 1848. In 1890, this school was changed to the State Normal College. Since the establishment of these institutions about 18,500 students have been graduated therefrom. They are now attended by about 9,500 pupils annually and maintained at an annual expense of about four hundred thousand

dollars. The value of the property of these schools is more than \$2,000,000.

**The Object.** — The acts creating these schools state their establishment to be “ for the instruction and practice of teachers of common schools in the science of education and the art of teaching.”

**How Established.** — Normal schools are established by special act of the State legislature. There is no general law providing for their creation.

**How Governed.** — The State Superintendent of Public Instruction has general supervision of these schools. Each school, however, has a local board, whose members are appointed for life by the State Superintendent. As vacancies occur, either by death or resignation, they are filled by appointment by the State Superintendent. The local board must consist of not less than three and not more than thirteen members. (The State Normal College board consists of five members.) The number on each board varies, ranging from six to thirteen. Members of a local board can be removed by the joint action of the State Superintendent and the Chancellor of the University of the State of New York. A majority of the members of a local board constitutes a quorum for the transaction of business.

**Powers and Duties of Local Board.** — 1. The local board is required to establish rules and regulations for the general government of the school under its direction.

2. The local board is required to make an annual report in such form and giving such information as the State Superintendent shall direct. This report is submitted to the State legislature through the State Superintendent.

3. It is the duty of local boards to prescribe the courses of study to be pursued in their respective schools.

4. Local boards are the custodians of the buildings and grounds of their respective schools and of all other property of the State pertaining thereto.

5. Local boards are authorized to appoint special policemen to protect the buildings and grounds and to preserve peace. These officers have power to arrest offenders.

6. It is the duty of local boards to supply these schools with necessary equipments and supplies.

7. Local boards are directed to insure the buildings and property of their respective schools for the benefit of the State, and to pay for such insurance out of the moneys appropriated by the State for the maintenance of such schools.



8. Local boards may, with the approval of the State Superintendent of Public Instruction, accept for the State money or property of any kind to be used for the general support of these schools as may be prescribed by the instrument making the gift.

9. Local boards employ and contract with the teachers employed in their respective schools.

10. A local board has power to dismiss pupils.

**Principal** — The principal is the chief executive officer for the board and has the immediate supervision of all work pertaining to the management of the school and the instruction given therein.

**Powers and Duties of State Superintendent.**— The State Superintendent is directed by law to appoint members of the local board, he determines the number of teachers to be employed and the amount of compensation to be paid them, he approves the appointment of teachers, and also approves the courses of study prescribed by the board.

He is also empowered to prescribe the conditions upon which pupils will be admitted to these schools, and to determine the number which may be admitted to each institution.

**Admission of Pupils.** — To be admitted to a

normal school, candidates must be at least sixteen years of age and must receive an appointment from the school commissioner of the commissioner district or from the superintendent of schools of the city in which such candidates reside. Beginning with February, 1906, candidates must present a high school diploma, or its equivalent, to be approved by the Commissioner of Education. Beginning with September, 1907, candidates must present a diploma of graduation from the course prescribed by the Commissioner of Education for admission to normal schools and city training schools under the provisions of chapter 1031 of the laws of 1895.

Candidates, 21 years of age, and who have had two years of high school work, or its equivalent, and in addition thereto have taught two years, will be admitted to the normal school with the understanding that they must complete the high school course in addition to the professional course before they shall be graduated.

Graduates of training classes who entered the class upon a high school diploma and who have taught one year since graduation from the training class may complete the professional course in the normal school in one year if they possess the required aptitude for training.

**Privileges of Pupils.** — Residents of the State regularly admitted to a normal school can not be charged tuition and can not be charged for the use of books or apparatus. Pupils, however, are chargeable for books lost by them or damaged while in their possession.

**Dismissal of Pupils.** — The local board may dismiss pupils for disorderly or immoral conduct or for neglect or inability to perform their work, or for a failure to comply with the regulations of the school upon which they are in attendance.

**Non-Resident Pupils.** — Pupils who are not residents of the State may be admitted to these schools upon paying such tuition as the Commissioner of Education shall prescribe, which is \$20 per term.

**Indian Pupils.** — The State Treasurer is authorized to pay on the warrant of the State Comptroller to the Commissioner of Education a sum not to exceed \$1,000 per year for the support and education of "ten Indian youth" in the State normal school [college] at Albany.

These pupils must be selected by the Commissioner of Education from the several Indian tribes in the State so as to distribute such selections equitably among these tribes. They must not be under sixteen years of age, and they are not entitled to more than

three years' education in such school. The executive committee of this normal school [college] is made the guardian of such pupils while they are in attendance upon such institution, and such committee is authorized to pay the necessary expenses of such pupils, not to exceed \$100 per year for each of such pupils, from the funds provided for such purpose. • (Chapter 89, Laws 1850.)

**Courses of Study.** — Each of the normal schools has three courses of study, viz., English, scientific, and classical. Each course is practically the same in all the schools. Some also have a special kindergarten and primary course. These courses are prescribed by the local boards but must be approved by the Commissioner of Education.

**Diplomas.** — The Commissioner of Education prepares diplomas, which are granted to those who complete a course of study in these institutions. These diplomas are signed by the Commissioner of Education, the chairman and secretary of the local board, and the principal of the school\*. Such diplomas entitle their holders to teach for life in the public schools of the State. They may be revoked by the

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\*State Normal College diplomas are signed by the Commissioner of Education, the President of the college, and all members of the local board.

Commissioner of Education for cause. The diplomas show the course of study which was pursued.

**Application of Tuition.** — Local boards could formerly expend the tuition received from any department of their respective schools for apparatus, furniture, repairs, insurance, improvements upon the grounds or buildings, or for ordinary current expenses. It is now paid into the State treasury.

**Application of Insurance Money.** — Whenever money is realized from insurance of the property or buildings of normal schools, such money must be deposited by the company in which such property is insured in a bank designated by the State Comptroller. It must be placed to the credit of the local board of such school and kept as a separate fund. Such money may be immediately used by the local board of the school to which it belongs upon the approval of the Commissioner of Education, to repair or replace in whole or in part the property damaged or destroyed.

**Local Authorities May Insure Normal School Property.** — The authorities of each city or village in which a state normal school is located may insure the real and personal property of such school when the State refuses to keep adequate insurance on such property. Such insurance must be in the name of the State, and any money obtained therefrom must be

used to repair or replace the property damaged or destroyed.

**Academic Departments.** — In some normal schools, academic departments are maintained by the State for the benefit of the localities in which such normal schools are located. Children of school age residing within the bounds of such localities are entitled to attend such schools. This is done in consideration of certain privileges conferred upon such school by these localities at the time such normal schools were created. Non-resident pupils can not lawfully be permitted to attend the academic departments of these schools.

**Removal of Teachers.** — The principal and any teacher employed in a normal school may be removed upon joint action of the local board and the Commissioner of Education. The initiatory steps in these proceedings should be taken by the local board. In June, 1880, Superintendent Gilmour demanded the resignation of Principal Hoose, of the Cortland normal school. Principal Hoose refused to resign. In July, Superintendent Gilmour withdrew his approval of the appointment of Principal Hoose and appointed another principal, whom the local board would not approve. The case was taken to the courts, and in April, 1882, the Court of Appeals decided the case in favor of Principal Hoose and the local board, on the ground that joint action of the board and Superintendent was

necessary to remove the principal, and that the Superintendent did not possess the power of removal.

The Court of Claims in 1884, awarded Dr. Hoose payment in full for his salary, except for the time he was elsewhere employed, between the beginning of the litigation and the decision of the Court of Appeals.

**Special Powers for Fredonia School.** — For special powers conferred on the Fredonia Normal School, consult chapter 677 of the Laws of 1904.

**Jamaica School.** — Transferred by chapter 524, Laws of 1905, to the control of New York city.

## REVIEW QUESTIONS

How many normal schools are there in the State? When was the first one established? Where? When was it made permanent? What change was made in this school in 1890? How many persons have been graduated from these institutions? What is the annual attendance? What does it cost annually to maintain them? What is the value of their property? What is the object of these institutions? How are they established?

Who has general supervision of these schools? What local authority has supervision of these schools? How is the local board chosen? For what period? Who is the executive officer of the board? Of how many members does the local board consist? How may members of this board be removed? What are the duties of the local board in relation to establishing regulations? In submitting reports to legislature? In formulating courses of study? In caring for buildings and other property? In appointing special policemen? In supplying schools with equipments? In insuring buildings and paying for such insurance? In accepting gifts made to the schools for the State? In employing teachers? In dismissing

teachers? State fully the powers and duties of the State Superintendent.

Who may be admitted to these schools? By whom are appointments made? By whom approved? What certificates of proficiency are accepted? What examinations are held? When? Where? What subjects are included? What standing is required in each subject?

To what privileges are pupils entitled? Who may dismiss pupils? For what reasons? Upon what conditions are non-resident pupils admitted? Who are *non-resident* pupils? What amount is the State Comptroller authorized to pay each year for the support and education of Indian youth in these schools? How many of such youth may be educated from such fund? How are they chosen? What must be their age? How many years may they attend these schools? Who is made guardian of these pupils? What amount may be expended each year upon these pupils?

What courses of study do these schools have? Are these courses uniform? By whom are they prescribed? By whom approved? Who receive diplomas from these schools? By whom are such diplomas prepared? By whom are they signed? What privilege do such diplomas confer? For what may they be revoked?

How may tuition money be expended? Where must money derived from insurance be deposited? What application may be made of such money? What are academic departments in these schools? How were they created? Who may attend these departments? Can non-resident pupils be admitted? How may a teacher be removed? Give details of the case relating to the removal of Principal Hoose, of Cortland.



## CHAPTER XXIV

### TEACHERS' INSTITUTES, TRAINING CLASSES, STATE SCHOLARSHIPS IN CORNELL UNIVERSITY

#### TEACHERS' INSTITUTES

[SEE TITLE X]

**Origin.** — The first teachers' institute in this State was held at Ithaca in April, 1843. It was in session for two weeks and was attended by twenty-eight teachers. The Superintendent of Tompkins county had charge of it and obtained assistants to conduct it. It received no aid from the State. The propriety of establishing this institute was decided upon in October, 1842, at the Tompkins County Teachers' Association. The work was successful and popular, and other counties soon followed the same plan. In 1847 the legislature appropriated \$60.00 for the aid of each institute held in the State.

**By Whom Appointed.** — The State Superintendent of Public Instruction has the power — and it is his duty — to appoint all institutes which are held in the State for the training of teachers and the improvement of their qualifications.

**Time and Place of Institute.** — The law provides that the State Superintendent shall *consult* school commissioners relative to the time and place of holding institutes; but the power to designate the time and place at which an institute shall be held is given solely to the State Superintendent.

An institute must be held annually for each commissioner district, but the State Superintendent may, in his discretion, appoint a joint institute for two or more school-commissioner districts.

**Employment of Conductors.** — The power to employ persons to supervise and conduct institutes is given to the State Superintendent, and he determines the compensation which they shall receive. He may also employ any additional assistance which he deems for the best interests of the school system.

**Regulations for Institutes.** — The State Superintendent establishes regulations to govern institutes, and it is the duty of conductors and school commissioners to enforce such rules, and of all members of institutes to comply with them.

**Visitation of Institutes.** — The law provides that the State Superintendent shall, so far as consistent with his other duties, visit institutes

or cause them to be visited by representatives of the State Department of Public Instruction for the purpose of ascertaining the general character and proficiency of the work and of rendering all assistance possible in the work.

**Notice to Teachers.** — It is the duty of the school commissioners to notify all teachers, trustees, and boards of education in their respective jurisdiction, and those who desire to become teachers, in the manner designated by the State Superintendent, of the time and place at which institutes will be held.

**Duty of School Commissioners.** — When an institute has been appointed for any commissioner district it is the duty of the commissioner of such district to make all the necessary local arrangements for holding such institute. He should provide a suitable room; he should give the conductor assistance in organization; he should see that a record of all teachers in attendance upon the institute is kept in proper form; he should also file with the trustees of each district a report showing the attendance of all teachers employed therein; and he must also file with the State Superintendent a report of his institute in the form prescribed by the State Superintendent and

giving the information which the Superintendent shall require.

**Expense of Institutes.**—All expense involved in holding institutes is paid by the State. The commissioner in whose district an institute is held, must file with the State Superintendent a detailed statement of all expenses incurred in holding the institute. He must also supply vouchers for all expenditures made. The commissioner must submit such statements and vouchers under affidavit of the correctness thereof. Unreasonable and unnecessary claims will not be audited by the State Superintendent.

**Use of School Buildings.** — When an institute has been appointed for any school-commissioner district, the commissioner of such district has the right to hold such institute in any school building of a district in his commissioner district, which receives public money, without compensation to the State for its use. The building thus used must be left in as good condition as it was when taken, as regards its cleanliness and general condition. The expense of lighting, heating, and janitor service must be paid by the State.

**School Must be Closed.**—All public schools in the school districts and parts of school districts, except as hereinafter stated, located in a school-

commissioner district must be closed during the time an institute is held in such commissioner district.

The schools in an incorporated city are not required to be closed; in union free school districts having a population of five thousand or more and employing a superintendent of schools who devotes his whole time to the superintendence of the schools in such district, the schools may or may not be closed, as the board of education shall decide.

**Failure to Close School.** — For a wilful failure on the part of trustees to close school while an institute is in session in the commissioner district in which their school district is located, the State Superintendent is authorized to withhold the public money to which such district would be entitled, and trustees are personally responsible to a district for the loss of any funds through their negligence. Such trustees may also be removed from office.

**Who Shall Attend.** — All members of training classes under instruction in a commissioner district in which an institute is held, all teachers engaged in teaching in such commissioner district, and all persons who are *under contract to teach* in any school district, although not teach-

ing at the time the institute is held for the commissioner district in which such school district is located, must attend such institute for the full period for which it is in session. For instance:

November 2, 1898, John Jones contracted to teach in district No. 4, town of Roxbury, Delaware County. Under the terms of his contract school was to open November 28, 1898. An institute was held in the school-commissioner district in which this school district is located, during the week commencing November 9, 1896. Under these conditions Mr. Jones was required to attend the institute.

**Failure of Teacher to Attend Institute.** — A wilful failure on the part of a teacher to attend an institute as required by law is sufficient ground for the revocation of the license held by such teacher.

**Teachers Excused from Attendance.** — Physical inability to attend an institute properly shown by the affidavit of a physician, death in the teacher's family, or some other urgent necessity may, in the discretion of the State Superintendent, be accepted as sufficient reason for excusing the absence of a teacher from an institute which such teacher should have attended.

**Payment of Teacher.** — Trustees are directed

to pay teachers full compensation for the time spent by them while in attendance upon an institute as required by law. There are usually twenty-two sessions at an institute and a teacher can receive pay for each session attended. Thus a teacher attending nineteen sessions would be entitled to receive nineteen twenty-secondths of the weekly compensation paid such teacher by the district.

When the compensation a teacher receives includes board, and such board is obtained either by the teacher's boarding around in a district or by the district's hiring such teacher's board, the amount paid by the trustees for such board or a fair value of board in the district where a teacher boards around must be included as a part of the teacher's compensation, and the teacher should receive pay therefor for time spent in attendance upon an institute.

A teacher who attends an institute while under contract to teach although not teaching, is entitled to receive pay the same as though such teacher had been engaged in teaching at the time the institute was held.

**Attendance Allowed for Apportionment of State Money.**— Any school district closing its school during an institute must be allowed the same

average pupil attendance during the time such institute was in session as was the average weekly aggregate attendance during the week previous to such institute. In the apportionment of public school money the school commissioner must include such attendance in the aggregate attendance of the district.

**Summer Institutes.** — The State Superintendent has authority to appoint three summer institutes, which shall be located in convenient parts of the State. These institutes shall be of three weeks' duration and for the purpose of training and instructing teachers for the public schools of the State. The State Superintendent is empowered to employ instructors and to establish regulations for the government of such institutes.

These institutes must be open and free to all teachers in the State, and to those preparing to become teachers if they desire to attend.

#### TEACHERS' TRAINING CLASSES

[SEE TITLE XI]

**Historical Sketch.** — In 1834 an act was passed providing for the organization of Teachers' Training Classes. They were under the supervision of the Board of Regents from that year



until 1889, when their supervision was transferred by an act of the legislature to the State Superintendent of Public Instruction.

**Object.**—Teachers Training Classes are organized to give instruction “in the science and practice of common-school teaching” to persons who desire to become teachers in the public schools of the State.

**Institutions Which May Organize Them.**—Academies and union free schools are the only institutions in which these training classes may be organized, and only such of these institutions as the State Superintendent of Public Instruction designates.

**How Such Institutions are Designated.**—The State Superintendent of Public Instruction has authority, by law, to adopt regulations by which institutions desiring the appointment to organize training classes must be governed. (As these regulations may be changed at any time by the State Superintendent they are not given in this work, but may be obtained from the State Department upon application.)

An institution desiring an appointment to instruct a class should obtain a blank application from the State Superintendent, supply the information called for in such blank, and then file it in

the State Department at Albany. This application, properly filled out, should be filed not later than May 1st, and appointments made on such applications are for the school year beginning on the first day of August following. From the applications filed the State Superintendent selects those institutions which are the best equipped for the work and the selection of which will distribute such classes throughout the commissioner districts of the State so as to give equal advantages, as far as possible, to the people of all parts of the State. The number of appointments which may be made for any year is a matter of discretion on the part of the State Superintendent, but cannot exceed 113.

**Number of Pupils in Class.**—No class can legally be formed with a membership of less than ten or more than twenty-five.

**Period of Instruction.**—A class cannot legally be organized for a shorter period than sixteen weeks, and it is within the authority of the State Superintendent to require a longer period. Under this authority the State Superintendent requires the organization of a class to be for two terms of not less than eighteen nor more than twenty weeks each. The Superintendent has also established a regulation requiring the amount

of instruction in these classes for each day to consist of three periods of forty-five minutes each.

**Tuition.**—No pupil admitted to these classes and remaining therein the period required under the regulations of the State Superintendent can lawfully be charged for such attendance. A non-resident pupil who is a member of a training class and who leaves such class within the prescribed period without the consent of the State Superintendent may be charged tuition by the school authorities of the district in which such training class is organized, at the rate charged non-resident pupils who are in attendance upon such school but who are not members of a training class.

**Compensation Allowed.**—Any institution maintaining a training class of not less than ten pupils regularly organized is entitled to receive \$500 from the State. The balance of the training-class fund, after expenses of inspection, printing, etc., is ratably apportioned on the basis of the number of pupils instructed therein in excess of the first ten. In case a pupil has not been in attendance the required period, the State Superintendent may, for reasons satisfactory to himself, excuse such default and allow the institution in which such pupil was instructed full

compensation for the time such pupil was in actual attendance upon such training class.

This money is paid by the State Comptroller on the certificate of the State Superintendent of Public Instruction to the district entitled to receive it. The money is then the property of the district and may be used for school purposes as the district directs, except that such money cannot be paid as extra compensation to a teacher or teachers who receive a fixed salary.

**Training-Class Fund.**—The legislature appropriated in 1902 eighty-two thousand five hundred dollars from the free school fund for the support of these classes. The compensation allowed districts for instruction and the expense of inspection and supervision are paid from these appropriations.

**Duties of School Commissioners.** — School commissioners are directed by law to visit and inspect training classes, to advise and assist principals in the organization and management of such classes, to conduct examinations for such classes as directed by the State Superintendent, and to issue certificates in the form prescribed by the State Superintendent to those members of classes who have met the requirements of the

law and the regulations of the State Superintendent.

**Training-class Certificates.** — A training-class certificate issued between January 1, 1896, and August 1, 1905, is valid for three years and entitles its holder to teach in any public school, during its validity, in the commissioner district for which it is issued. Upon its expiration it may be renewed for a period of five years without further examination. It must also be indorsed by any school commissioner in the State, when presented to a commissioner for that purpose. These certificates issued after August 1, 1905, entitle their holders to teach in those schools only which do not maintain an academic department.

**Regulations for Classes.** — To the Commissioner of Education is given the authority to establish regulations for the instruction and management of training classes, to prescribe the course of study for such classes, and to determine the conditions upon which pupils will be admitted to such classes.

No person can receive a certificate who is under the age of eighteen years, and as pupils are required to be under instruction in a training class one year, candidates for membership in such classes must be at least seventeen years of

age. (All other regulations may be obtained upon application to the State Superintendent.)

#### CITY TRAINING SCHOOLS

[SEE CHAPTER 1031, LAWS OF 1895]

Under the provisions of this act any city in the State, or any village in the State, employing a Superintendent of schools, may establish and maintain schools or classes for the professional training and instruction of teachers for not less than thirty-eight weeks in each school year.

The terms of this law also provide that no person is eligible to membership in one of these training schools or classes who has not been graduated from a high school or academy having a three years' course of instruction approved by the State Superintendent of Public Instruction, or from some other institution of equal or higher rank. The course of study of such training schools or classes must also be approved by the State Superintendent.

The State Superintendent is also authorized by the law to apportion to the school authorities of each city maintaining a training school or class under the provisions of this law a compensation of one dollar for each week of instruction of each pupil. The State Superintendent may

set apart each year from the free school fund for this purpose a sum not to exceed one hundred thousand dollars.\* If the aggregate amount to be apportioned in any one year exceeds this sum, the Superintendent is authorized to apportion to each class its pro rata of such amount.

**Inspectors.**—The State Superintendent has the power to appoint as many training class inspectors as he deems necessary and to fix their compensation. The present inspection force in the training class bureau consists of a supervisor of training classes, who has general supervision of the work, and four inspectors.

#### STATE SCHOLARSHIPS IN CORNELL UNIVERSITY

**Origin.**—In 1862 Congress passed the National Land Grant Act, under the terms of which each State received thirty thousand acres of public land owned by the United States, for each representative that she had in Congress. This land was donated by the national government to the States and Territories of the Union for the purpose of establishing colleges for the benefit of agriculture and the mechanic arts. New York State received by this Act nine hundred ninety thousand acres of land. The State legislature of 1863 enacted a law providing that the revenue

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\* This is superseded by chapter 644, Laws of 1901, which appropriated \$25,000 for training schools.

derived from the sale of this land should be given, under certain conditions, to the authorities of the People's College at Havana. The authorities of this college failed to meet the conditions prescribed by the Act of 1863, and the legislature of 1865 provided that the revenue derived from the sale of this land should be given to the authorities of Cornell University. This Act of 1865 provided, among other conditions, that Ezra Cornell should contribute unreservedly \$500,000 to the authorities of Cornell University, and that the University should receive annually one State scholar free of tuition for each assembly district in the State. As Mr. Cornell contributed the amount specified, the revenue derived from the sale of this land was donated to the University. The amount realized by the State from the sale of this land is \$688,576.12. The legislature of 1895 enacted a law providing that this money should be placed under the control of the State, and that the State should pay annually to the trustees of Cornell University five per cent upon this fund. The University, therefore, receives annually \$34,428.80. The State scholars in the University who receive free tuition include about one-third of the entire number of students attending the University, and the University



receives from the State only \$34,428.80, while the entire cost of maintaining the University is about one-half million dollars annually.

**Number of Scholarships.** — The act creating State scholarships provided that State scholarships should be awarded annually for each assembly district in the State. At this time there are 150 assembly districts, and this is the basis on which appointments are now made. Each scholarship is valid for four years, and as 150 appointments are made each year, the State has 600 State scholars in Cornell University at all times.

**How Awarded.** — Appointments to State scholarships are made by the State Superintendent of Public Instruction, upon the result of competitive examinations held for that purpose. Albany county has four assembly districts and is entitled to four State scholarships. The names of candidates who take the examination for this county are arranged in the order of their merit, which is determined by their standing in the examination. The first four on the list are assigned to the scholarships for Albany county, irrespective of the assembly districts in which they reside. The same course is pursued in assigning appointments to all other counties.

No person can be considered in awarding these scholarships who did not attend the required competitive examination.

**Competitive Examinations.** — These examinations are held on the first Saturday in June of each year at the county seat of each county in the State. The school commissioner and the city superintendents jointly conduct the examination for their respective counties. These examinations are under the supervision of the State Superintendent of Public Instruction, and the questions used in such examinations are prepared under his direction. The subjects in which candidates are examined are designated by the president of Cornell University. These may change from year to year, but the general scope of the examination for each year may be obtained by writing the State Department for the annual circular issued from that office.

**Eligibility.** — To be eligible to enter a competitive examination candidates must be at least sixteen years of age, must be residents of the State, and must have been in attendance upon some public school or academy of the State for at least six months during the year immediately preceding the date on which such competitive examination is held. Attendance upon an

institution registered as an academy under the regulations of the University of the State of New York meets the requirements of the law. Candidates must attend examinations in the county in which they actually reside. Students of either sex are eligible to these scholarships.

**Entrance Examinations.** — All candidates who receive appointments but who do not hold credentials to admit them to the University, are required to take the regular entrance examinations at the University. A failure to take this examination or to obtain a standing therein satisfactory to the University authorities forfeits all right to the scholarship.

**Vacancies.** — If a vacancy occurs in a State scholarship, it is the duty of the president of the University to notify the State Superintendent of Public Instruction of such vacancy. The State Superintendent should then assign to such vacant scholarship the person standing highest on the eligible list of candidates for the county to which such scholarship belongs. If there should be no person on the eligible list for such county, then the State Superintendent should appoint the person standing highest on the eligible list which is made up from all the counties of the State. The person receiving such

appointment is entitled to the privileges of such scholarship for the remaining period of the four years for which it was granted.

**Scholarship Privileges.** — The holder of a State scholarship is entitled to free instruction in any department of the University for a period of four years.

**Leave of Absence.** — If a State scholar shows to the satisfaction of the president of the University that it is necessary for him to leave the University to earn funds with which to meet his living expenses while attending the University, the president may, in his discretion, grant such leave of absence, and such State scholar will then be allowed six years from the date of entrance in the University in which to complete the course.

### REVIEW QUESTIONS

When was the first teachers' institute in this State held? Where? Give a brief history of its origin and success. In what year was State aid given institutes? By whom are institutes appointed? How is the time and place of institutes determined upon? How often are they held? By whom are the conductors chosen? By whom are the regulations of institutes prescribed? What is the duty of the State Superintendent in relation to visiting institutes? To whom should a commissioner send notice of the time of holding an institute? What is a commissioner's duty, in general, in relation to institutes? How are expenses of an institute met? What is the law in relation to holding institutes in public school buildings?

What schools must be closed during the session of an

institute? What is the law in relation to closing schools in cities? In union free-school districts having a population of 5,000 or more and employing a superintendent? What is the penalty in the case of a trustee who refuses to close school during the session of an institute? Name three classes who are required to attend institutes? Give an illustration of the third class named. What is the penalty in the case of a teacher, required by law to attend an institute, who wilfully refuses to do so? For what reasons may a teacher be excused from attending an institute? What is the law in relation to the payment of teachers for the time spent at an institution? What is the law, in this respect, in relation to board? In relation to a teacher under contract although not teaching? What allowance is made a district for the time school is closed during an institute? How many summer institutes may the State Superintendent appoint? Who may attend them? For what period are they in session?

What is the object in organizing training classes? When was the first act creating them passed? Who had supervision of them? What change was made in 1889? In what institutions may they be organized? By whom are these institutions designated? Explain how these appointments are made? What restrictions are placed on the number of pupils which may be in a class? What period of instruction is required? What period for each day? Are members of these classes charged tuition? What exception is there to this rule? What compensation is allowed an institution for maintaining one of these classes? How is this money obtained? For what may it be used? What appropriations are made for this work? What are the general duties of school commissioners in relation to these classes? Explain fully the value of a training class certificate. By whom are regulations governing training classes prescribed? What is the minimum age limit for admission to these classes? Explain the provisions of chapter 1031 of the Laws of 1895 relating to training classes in cities and villages employing a superintendent.

Explain fully the origin of State scholarships in Cornell University. How many scholarships are awarded each year? By whom are appointments to these scholarships made? Explain fully how they are made. Explain fully how the competitive examinations are conducted. Who are eligible to enter these examinations? Where must candidates attend examinations? What is the ruling in

relation to State scholars taking entrance examinations at the University? Explain how vacancies are filled in the University. What privileges does a scholarship confer? By whom may a leave of absence be granted to a State scholar? For what purpose?

## CHAPTER XXV

### TEACHERS' QUALIFICATIONS, CERTIFICATES, CONTRACTS, POWERS AND DUTIES

**Who are Legally Qualified to Teach.** — No person is legally qualified to teach in a public school in any commissioner district who does not hold either a State certificate, a college graduate's certificate, a normal school diploma, a temporary license, or a school commissioner's certificate. To be legally qualified to teach in a city, a person must hold one of the first three certificates above named or a certificate issued by the school authorities of the city in which such person desires to contract. (Sec. 38, Art. 5, Title 7.)

**Age of Teachers.** — No person can legally be licensed to teach in a public school of this State who is not at least eighteen years of age. (Sec. 38, Art. 5, Title 7.)

**State Certificates.** — These certificates have been issued by the State Superintendent of Public Instruction since 1875, upon examination only. Their holders are legally qualified to teach for life in the public schools of the State without further examination. Previous to 1875, these certificates were issued by the State Superintendent upon recommendation. No ex-

aminations were required. Such certificates confer the same rights upon those holding them as State certificates issued since 1875. Candidates must pass the required examinations and must have taught successfully for two years, to be eligible to receive one of these certificates. (Sec. 10, Title I.)

**College Certificates.** — A certificate, valid for three years in all schools, will be issued to any graduate of a college approved by the State Commissioner of Education, who shall have completed therein a course in education under the regulations of the State Education Department. On evidence of three years successful experience in teaching a permanent certificate will be issued.

A certificate, valid for two years, will be granted to a graduate of an approved course in an approved college. If during this term the holder shall pass an examination in the principles of teaching, the certificate will be renewed for one year. This certificate entitles its holder to teach in high schools, in villages not employing a superintendent, and in rural schools. At the end of three years successful experience in teaching a college graduate certificate will be issued, valid for life.

**Normal School Diplomas.** — These diplomas are issued by the normal school authorities to students who have completed one of the pre-



scribed courses of these schools. Such diplomas legally qualify those who hold them to teach for life in the public schools of the State without further examination.

**Commissioners' Uniform Certificates.** — These certificates are issued by school commissioners under such regulations as the State Superintendent of Public Instruction prescribes.\* The certificates issued at present are known as first, second, and third grades; training-class certificates, and special certificates known as drawing, kindergarten, and vocal-music. (Subdivision 5, Sec. 13, Title 5.)

**First Grade.** — These certificates are valid for ten years, and upon expiration they may be renewed, without examination, by any commissioner in the State for a like period, provided their holders have taught under them five years. These certificates are valid in the school-commissioner district for which they are issued, and upon indorsement by the commissioners having jurisdiction, they become valid in any commissioner district in the State. Candidates must have had two years' experience, to be eligible to receive one of these certificates.

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\* The regulations under which these certificates are issued may be obtained at any time from the State Department of Public Instruction.

**Second Grade.** — These certificates are valid for three years and cannot be renewed. They are valid in the school-commissioner district for which they are issued, but are indorsed by other commissioners in the same manner as first grade certificates. Ten weeks' experience is required of a candidate to be eligible to receive one of these certificates. Second grade certificates will not be issued after August, 1906.

**Third Grade.** — These certificates are valid for one year and not renewable. A certificate of this grade restricts its holder to a specific school district approved by the school commissioner. Certificates of this grade have not been issued since August, 1905. All third grade certificates will therefore have expired August 1, 1906.

**Training Class.** — These certificates are issued to those who complete one year's work in a training class under the supervision of the State Education Department. (See page 311.)

**Training School Certificates.** — These certificates are issued for three years by city superintendents to those who complete a course in a training school. They are renewable for ten years without examination, and school commissioners are required to indorse them. (See pages 349, 350.)

**Drawing Certificates.** — These certificates are issued to special teachers of drawing. They entitle

those holding them to teach *drawing* only. A person who holds a drawing certificate and a general certificate of any grade may teach drawing and do general teaching also. Drawing certificates are valid for three years, and may be renewed without examination in the same manner as first-grade certificates are renewed.

**Kindergarten Certificates.** — The holders of these certificates are entitled to teach *kindergarten* only. The holder of a kindergarten certificate, however, who also holds another certificate permitting general teaching, is not debarred from teaching under such other certificate. These certificates are valid for three years, and may be renewed under the same provisions as those which govern the renewal of first-grade certificates.

**Vocal-Music Certificates.** — These certificates are issued without examination, are valid for three years, and may be renewed. A candidate to receive a certificate of this kind must show to the satisfaction of the Commissioner of Education that he or she has received sufficient professional training in vocal music and has had sufficient experience in teaching the subject, to be well qualified to receive such certificate.

**Elementary Certificates.** — These certificates are issued by school commissioners for a period of two years. The holders of these certificates may teach in schools which do not maintain academic depart-

ments subject to the approval of the school commissioner. These certificates are not renewed but may be extended one year for each year of academic work completed while they are in force, and may also be indorsed by school commissioners.

**Academic Certificates.** — These certificates are issued by school commissioners for a period of three years, are limited to schools approved by commissioners and are not valid in schools which maintain an academic department. But one certificate will be issued to the same person, and such certificate will not be renewed or extended, but may be endorsed by school commissioners. To receive such certificate a candidate must hold a regents academic diploma on which must be credited advanced arithmetic and drawing, and either physiology and the principles of education, or the history and principles of education.

**General Certificates.** — A State certificate, a college-graduate certificate, a normal-school diploma, a training-school certificate, a professional certificate, a training-class certificate, a first-grade certificate, a second-grade certificate, and a third-grade certificate may be regarded as *general certificates* to distinguish them from special certificates. These general certificates state that their holders are properly qualified and are entitled to teach in the public schools. Such certificates do not restrict their holders to the teaching of any particular subject. A special

certificate does so restrict, as, for instance, a drawing certificate entitles its holder to teach drawing only. The holder of any one of these general certificates may, therefore, teach any special subject, as drawing or kindergarten, without holding a special certificate.

**Temporary Licenses.**—The State Superintendent may, in his discretion, issue a temporary license, valid in any school district or any school-commissioner district, for a period not to exceed six months, whenever in his judgment it is necessary or expedient to do so. (Sec. 10, Title 1.)

**Commissioners' Refusal to Issue Certificates.**—A school commissioner may refuse to issue a certificate to a person who has passed the required examination, if a valid reason is assigned for such refusal. In cases of this kind, the aggrieved party may appeal from the action of the commissioner in refusing to issue his or her certificate, to the State Superintendent. If in the judgment of the State Superintendent the reasons given by the commissioner are valid, the commissioner will be sustained in his refusal to issue such certificate, but if the State Superintendent does not consider the commissioner's reasons valid, he will direct such commissioner to issue the certifi-

cate. Immoral character or lack of ability to govern or manage a school has been held to be a valid reason for withholding a certificate.

**Indorsement of Certificates by the State Superintendent.**— The State Superintendent of Public Instruction may in his discretion indorse State certificates issued in other States, or normal-school diplomas issued by the authorities of normal schools of other States. When such certificates are indorsed by the State Superintendent, they have all the force and effect of State certificates and normal-school diplomas issued by the proper authorities of this State.

**Indorsement of Certificates by School Commissioners.**— School Commissioners are required under the regulations prescribed by the State Superintendent of Public Instruction to indorse *first grade, second grade, and training-class* certificates; and *drawing, kindergarten, and vocal-music* certificates issued under the uniform system of examinations, or to assign valid reasons for refusing to do so. When such certificates are indorsed by another commissioner, they have the same value in the district of the commissioner who indorsed them as in the commissioner district for which they were originally issued. Commissioners may act their pleasure about in-

dorsing *third-grade* certificates. They are not *required* to indorse them. When certificates of this grade are indorsed, the indorsement should show the specific school district for which they are made valid.

The State Superintendent of Public Instruction has ruled that the holders of certificates which school commissioners are required under his regulations to indorse are legally qualified to contract to teach in any school-commissioner district in the State. They may legally contract in such districts before their certificates have been indorsed by the commissioner having jurisdiction. After making a contract in a commissioner district other than the one for which a certificate is valid, the holder of such certificate should present it for indorsement to the commissioner having jurisdiction over the district for which such contract was made. If a school commissioner refuses to indorse such certificate, its holder may appeal from the action of the commissioner to the State Superintendent of Public Instruction, who will determine upon the validity of the reasons assigned by the commissioner in refusing his indorsement. (No. 4888.)

**Payment of Unqualified Teachers. —** No part

of the school moneys apportioned to a school district can be applied to the payment of the wages of an unqualified teacher. Nor can the wages of an unqualified teacher be collected by a tax upon the district. Any trustee who applies such money or who directs or consents to the use of such money contrary to these provisions, is guilty of a misdemeanor. Any fine imposed therefor must be for the benefit of the common schools of the district. (Sections 39 & 45, Art. 5, Title 7.)

Any trustee or trustees who employ unqualified teachers are personally responsible to such teachers for their salary. (Sec. 9, Title 7.)

A trustee or trustees who wilfully employ a teacher not legally qualified may also be removed from office by the State Superintendent of Public Instruction. (Sec. 15, Title 1.)

**Revocation of Certificates.** — There are two authorities by either of whom teachers' certificates may be revoked, namely, the State Superintendent of Public Instruction and a school commissioner. The State Superintendent of Public Instruction may revoke a certificate of any grade by whomsoever issued, for all reasons on which such action may be legally taken. Since the enactment of the consolidated school



law of 1894, school commissioners have had authority to revoke certificates on the ground of immoral conduct only. On this ground a commissioner may revoke a State certificate, a normal-school diploma, a college-graduates' certificate, or a certificate issued by any school commissioner in the State. (Sec. 11, Title 1, and subdivision 6 of Sec. 13, Title 5.)

Whenever charges have been preferred to a commissioner against the moral character of a teacher, it is the duty of the commissioner to furnish such teacher a copy of these charges and to also notify the teacher of a time and place at which a hearing will be given thereon. At this hearing the evidence in support of such charges must be presented, after which the accused is entitled to present evidence to disapprove such charges. The accused is also entitled to be represented by counsel. When a certificate issued by the State Superintendent or a normal-school diploma is revoked by a commissioner on these grounds, the commissioner should immediately file with the State Superintendent a notice of such action.

A school commissioner cannot revoke a certificate for deficiency in scholarship or for inability to manage or govern a school. These are ques-

tions which the commissioner should have determined before issuing a certificate. The issuance of the certificate presupposes that proper investigation has been made in regard to the candidate's qualifications, and that such qualifications have been found to be satisfactory to the commissioner. The only authority to revoke a certificate on this ground is the State Superintendent of Public Instruction.

There are two ways of disposing of an inefficient teacher. One way is to establish such inefficiency to the satisfaction of the State Superintendent, upon direct appeal for that purpose in due form. The State Superintendent will then revoke the certificate of such teacher. The second method is for the board of trustees to dismiss the teacher. Then, if the teacher appeals from the action of the board, the State Superintendent becomes the judge of the validity of the grounds upon which the board based its action. The charge of inefficiency must in this case, also, be proved to the satisfaction of the State Superintendent. If proved, he will sustain the action of the board.

A certificate should not be revoked for immoral conduct which occurred previous to the issuance of the certificate if such conduct was known to

the official who issued the certificate at the time he issued it.

Charges of immoral conduct against a teacher must be definite and specific so that the accused will know with just what acts he is charged. A commissioner has no power to place the holder of a certificate upon trial on general charges of immoral conduct.

The consolidated school law provides that certificates may be revoked for the following specific causes:

1. Failure to attend teachers' institute as required by law. (Sec. 6, Title 10.)
2. Failure to complete an agreement to teach a term of school without assigning a valid reason. (Sec. 11, Art. 6, Title 7.)
3. Immoral conduct. (Sub. 6, Sec. 13, Title 5.)

In cases which have come before State Superintendents of Public Instruction upon appeals it has been held that certificates may be revoked for a teacher inflicting upon a pupil unreasonable, unnecessary, and cruel punishment, and also for intemperance upon the part of the teacher.

Superintendent Draper held that the severe penalty of revoking a certificate should not be imposed except for a cause sufficiently grave to

justify a permanent prohibition of the right to teach. (No. 3572.)

In an appeal case recently decided by Superintendent Skinner the broad and reasonable principle was maintained that the general conduct of a teacher should be such as to inspire the fullest confidence of parents, and that when the acts and general conduct of a teacher were such as to produce the opposite result, such teacher was unfit to be permitted to remain in the teaching service. (No. 4644.)

The revocation of a certificate terminates any existing contract between the holder of such certificate and a trustee or trustees.

**Who May Contract.** — Any person can enter into contract to teach a public school who holds a legal certificate of qualification.

**Contracts With Minors.** — A minor may contract with a board of trustees to teach a public school. A minor making such contract must complete the term of contract, and for a failure to do this without a valid reason, such minor's certificates may be revoked. Under the general law of contracts, a minor would not be responsible to a board of trustees for any damage claimed by reason of such minor's failing to comply with the terms of their contract.

**Contracts With Married Women.**—Section 21 of the domestic relations law gives married women the right to make contracts and to receive compensation thereon.

**By Whom Employed.**—Teachers must be employed by the trustees of the districts or by the board of education. A school district meeting cannot direct what teachers shall be employed. This is a power to be exercised solely by the trustees or by a board of education.

**Employment of Relatives.**—No person related to one or more of the trustees of a common-school district by blood or marriage can be employed by such trustees unless such action is approved by two-thirds of the voters of such district present and voting at an annual or a special meeting of the district.

In a Union free school district no person can be employed by a board of education, who is related by blood or marriage to any member of the board, except by a two-thirds vote of such board, and such vote should be entered upon the proceedings of the board.

When a teacher, who is a relative of a trustee of a common-school district or of a member of a board of education, has been employed under the approval of such district or such board as

stated above, and the same trustees or board of education desire to employ such teacher for the next ensuing year, it is not necessary to obtain a second approval of such district or board. (D. 4588.)

**Period of Employment.** — A trustee or trustees cannot employ a teacher for a shorter period than ten weeks, except to fill out an unexpired term. Nor can a trustee or trustees contract with a teacher for a longer period of time than that for which such teacher's certificate of qualification is valid. All contracts must be for a specific time. A trustee cannot legally employ a teacher for "as long as her work is satisfactory."

The trustee or trustees of a district may contract for the employment of a teacher for a period of one year extending beyond the then current school year. This power of contracting for the ensuing year is possessed by a sole trustee as well as by a board of three trustees.

A teacher employed contrary to these provisions has no claim against the district for salary, but she may enforce the contract against those making such contract as individuals.

**Form of Contract.** — Trustees are required to make and deliver to each teacher employed a *written* contract. This contract must be signed

by the trustee or trustees or some person authorized by said trustee or trustees to represent them.

This contract should show the agreement between the trustees and teacher in relation to the period of employment, the amount of compensation, and when the same shall be payable. It is also advisable to state in the contract whether the teacher is to be employed in a primary or grammar department, or to perform work along special lines, or to act as the principal.

A verbal contract the terms of which can be proved is binding and can be enforced. It is advisable, however, for trustees to issue written contracts and for teachers to insist on receiving them.

In a district having more than one trustee, the contract must be made by a majority of such trustees and at a meeting regularly held. The contract is not legal if the consent of the trustees is obtained separately and not at a meeting properly convened. A contract made by one trustee when duly authorized to act as the agent of the other trustees of the district is binding.

**When Compensation is Due.** — Teachers can require trustees to pay them as often at least as at the end of each calendar month of the term

of employment. A contract cannot legally be made providing that a teacher shall not be paid until the end of the term. A contract providing that a teacher shall not be paid as often as at the end of each calendar month is not binding, and such teacher can insist upon payments being made at the end of each calendar month. There is no legal objection to a contract which provides that a teacher shall be paid oftener than at the end of each month.

(At the close of this chapter the form of contract prepared by the State Superintendent of Public Instruction is given. Any other good form may be used.)

**Orders on Supervisors and District Collector or Treasurer.** — The law provides that trustees may issue orders on the supervisor of the town and on the collector or treasurer of the district in payment of teachers' salaries. The law also makes it a misdemeanor for a trustee to issue an order on any of these officers unless there are sufficient funds in the hands of such officer to pay the same. Teachers are therefore required under the law to accept such orders properly issued in payment of their salaries. A teacher is not, however, required to accept a check from a supervisor, collector, or treasurer. These



officers are required to honor such orders by paying the money thereon.

**Payment When School is Closed.** — Whenever school is closed by proper authorities during a term for which a teacher has been engaged and the teacher is thereby restrained or prevented from teaching, such teacher is entitled to full compensation for the time school is thus closed. Cases of this kind arise when a school is closed by the school authorities or the health authorities, owing to the prevalence of a contagious disease, or when the school-house has been destroyed by fire or otherwise. Trustees of rural schools often direct that schools shall be closed for a day for funerals and other occasions, and in all such cases the teachers employed in such schools are entitled to full compensation for such time. When a trustee refuses to pay a teacher for such time, the remedy for the teacher is to appeal in proper form to the State Superintendent of Public Instruction.

**Dismissal of Teachers.** — A teacher cannot be dismissed during a term of employment except for reasons which the State Superintendent would consider sufficient if brought before him upon appeal. Breach of contract, neglect of

duty, immoral conduct have each been held to be sufficient reasons.

Whenever a teacher is dismissed by a board of trustees without sufficient cause, he should hold himself in readiness to complete his contract and should make all reasonable efforts to do so. Under these circumstances a teacher would be entitled to full compensation for that portion of the term for which he was employed, but during which he did not teach owing to his being dismissed. If a teacher acquiesces in the action of a board of trustees in dismissing him, he is not entitled to compensation for the portion of the term which he failed to teach on account of such dismissal.

A board of trustees may dismiss a teacher *without cause* upon paying such teacher full compensation for the whole period for which such teacher was employed.

The teachers' remedy in these cases is to be found either in the courts or in an appeal to the State Superintendent. The latter is preferable. The appeal may be for a reinstatement in the position from which the teacher was dismissed or for the payment of salary for the time the teacher was deprived from teaching.

**Record of Attendance.**—It is the duty of

teachers to keep a record of attendance of all pupils in the school register provided for that purpose. This record must be kept as required under the directions given in the register which is prepared under the supervision of the State Superintendent. It is important that these records shall be kept accurately, as they form the basis for apportioning part of the State school moneys and are also important in connection with the enforcement of the compulsory-attendance law.

Teachers are responsible for the safe keeping of these records and should deliver them upon the close of their term of engagement to the clerk of the district.

**Verification of Records.**— Teachers are required to make affidavit to the correctness of the register kept by them. This affidavit may be taken by the district clerk and without charge. A teacher is not entitled to receive pay for any time taught until affidavit is made to the correctness of the register for the period for which payment is made.

**Rules and Regulations for Teachers.**— A board of trustees may prescribe general rules for the management of the school. When such rules have been adopted, it is the duty of teachers to

enforce them, and so far as they affect the teachers themselves to comply with them. The members of a board of trustees have no authority to enter the school-room to direct any of the work in progress or to direct the method of enforcing the rules of the board. This power rests solely with the teacher.

**School Hours.**— The school law does not define the hours that shall be devoted to school work. Custom has fixed the hours from 9 A. M. to 12 M. and from 1 P. M. to 4 P. M. An intermission of ten or fifteen minutes is given each half-day session. The board of trustees of a district may, however, designate other hours during which the school shall be in session. If these hours are reasonable, it is the duty of teachers to conduct school during the hours designated. If unreasonable hours are designated by a board, the State Superintendent of Public Instruction may, upon appeal in due form, modify the hours fixed by such board.

**Closing School.**— A teacher has no authority to close school on any school day without the consent of the board of trustees. A teacher who does close school on a school day without such consent is guilty of a breach of contract, and may be dismissed by the board. The consent of trus-

tees is not necessary in order to close school on a legal holiday or a general election day, or for the purpose of attending a teachers' institute, as required by law.

**Janitor Work.** — Neither teacher nor pupil can be compelled to do the janitor work of the school building. If the contract between the teacher and the trustees provides that the teacher shall perform this work, then it becomes the duty of the teacher to do it upon the ground that she has consented to do so by special agreement in her contract. A teacher who voluntarily does this work is not entitled to compensation for performing it.

**Enforcement of Payments.** — A teacher may bring an action in court for salary due him which has not been paid. He may also apply to the court having jurisdiction for a writ of *mandamus* compelling the trustees to pay the salary to which he is entitled. These methods are expensive and require more time than teachers can generally give for the adjustment of such cases. The most inexpensive way and the method by which adjustment can be reached in the shortest period of time is to appeal in due form to the State Superintendent of Public Instruction, who

has power to direct such payments and to enforce his decision.

**Wearing Religious Garb.** — There is no statute law in this state regulating the dress which shall be worn by teachers. The general influence upon the school system of teachers wearing a religious garb has been brought by appeal before the State Department in two cases. In March, 1887, on an appeal from the action of the board of education of Suspension Bridge, Superintendent Draper ruled as follows:

“The wearing of an unusual garb, worn exclusively by members of one religious sect and for the purpose of indicating membership in that sect by the teachers in a public school, constituted a sectarian influence, which ought not to be persisted in. The same may be said of the pupils addressing the teachers as ‘Sister Mary,’ ‘Sister Martha,’ etc. The conclusion is irresistible that these things may constitute a much stronger sectarian or denominational influence over the minds of children than the repetition of the Lord’s Prayer or the reading of the scriptures at the opening of the schools, and yet these things have been prohibited whenever objection has been offered by the rulings of this Department from the earliest days, because of the purpose enshrined in the hearts of the people and embedded in the fundamental law of the State, that the public school system shall be kept altogether free from matters not essential to its primary purpose and dangerous to its harmony and efficiency.” (D. 3520.)

In deciding an appeal from the action of the Board of Education of West Troy School Dis-

trict (now Watervliet), involving the same point, Superintendent Skinner held as follows:

I therefore concur in the opinion of my predecessor in office, viz., that the teachers in the public schools of the State ought not to wear the distinctive garb of any religious denomination, order, sect, or society, but ought to dress in the usual costume worn by men and women generally; and that any other costume or usage is inimical to the best educational interests of the locality and should be discontinued by direction of the local school authorities whose duty it is to so administer the trusts reposed in them as to bring about the very best results with the least irritation, and in harmony with the spirit of the section of the organic law herein quoted.

The school best does this which avoids any reference directly or indirectly to any particular denomination, sect, or order, both in the construction of the buildings used for school purposes and in the dress worn by the teachers employed therein. To those not satisfied with this complete and absolute severance of secular and religious instruction, the private school is open.

I also decide that it is the duty of the respondents to require the teachers employed by them to discontinue the use in the Public School room of the distinguishing dress or garb of the religious order to which they belong. (D. 4516.)

On May 15, 1897, Superintendent Skinner directed the Board of Education of Watervliet to notify and require all teachers employed in that city and wearing a religious garb to discontinue the use of such garb. The board was also directed, in case any such teacher should refuse or fail to comply with such requirement,

to dismiss such teachers from employment in the public schools of the city of Watervliet. An order was also issued by the State Superintendent prohibiting the County Treasurer from paying the money apportioned to this city until directed to do so by the Superintendent. (D. 4546.)

The Court of Appeals **held** that the decision of the State Superintendent on this question was in effect a regulation which he was authorized to make and that the prohibitive order was in accord with the public policy of the State as declared in section 4, article 9 of the Constitution. (184 N. Y. 421.)

**Retired Teachers Pensioned.** — Any teacher who has taught continuously in a town for twenty-five years or more and is a resident thereof, may, upon a majority vote of the voters of such town — such vote to be ascertained as provided by law — be retired from service and be paid thereafter while a resident of such town, one-half the amount of the salary paid such teacher for the last year devoted to teaching in such town. (Ch. 767, 1895.)

**When Teacher's Illness Prevents Teaching.** — Whenever a teacher under contract is unable to teach by reason of illness, such teacher should report the fact of such illness to the trustee or trustees. These officers may, if they desire, employ a substitute teacher during the illness of the regular teacher. Such regular teacher has no voice in determining who the substitute teacher shall be. This is a question to be determined solely by the trustees. If the illness of a teacher is continued for a long period, and



there is not reasonable hope of sufficient recovery to enable such teacher to resume teaching, the trustees may inform such teacher that the contract has been declared void by her inability to perform her part of it. The trustees may then employ another teacher, and if the teacher dismissed feels aggrieved, she may appeal from the action of the trustees to the State Superintendent.

**Authority Over Pupil.** — There is no provision in the consolidated school law defining the authority which a teacher has over the pupils under his charge. The decisions of the courts and the rulings of the State Superintendent of Public Instruction are, that the authority of the teacher over pupils is the same as that of a parent over a child, or as it is usually expressed that a teacher stands in *loco parentis* to his pupils. The authority of the teacher begins at the time the pupil arrives upon the school grounds, extends to the close of school, and continues until the pupil has left the school grounds. Cases may be cited in which the courts have held that the authority of the teacher extends beyond these limits, and that the pupil is accountable to the teacher for his conduct on the way to and returning from school, and even elsewhere,

when such conduct has a direct bearing upon the discipline and general welfare of the school. These are not, however, recent decisions, and are not safe guides for teachers of the present time. A modern view of courts and of departments having judicial powers is to restrict the authority of the teacher over the pupil to the time between the arrival of the pupil upon the school grounds and his departure therefrom. The superintendents of this State, from Superintendent Gilmour to Superintendent Skinner, have taken this view.

Superintendent Draper held that the authority of the teacher was not absolute during the noon recess, and that a pupil possesses a legal right to leave the school grounds during the noon recess with the consent of his parents. (D. 3698.) The right of a teacher to detain a pupil after school hours is questionable. Where a parent objects to such detention, a teacher should not insist upon it.

The authority of the teacher, however, is restricted by the rules and regulations of a board of education or a board of trustees. Where a board of education or a board of trustees has prescribed regulations to govern the discipline

of the school, it is the duty of teachers to keep within the bounds of such regulations.

**Employment of Teachers in Cities.** — On January 1, 1897, the provisions of chapter 1031 of the Laws of 1895 went into operation. These provisions relate to *primary* and *grammar school* teachers, but do not apply to teachers of any other grade. Teachers who were employed under a valid contract at the time this law went into operation may be continued in the service, even if they do not possess the qualifications prescribed by this law. But all teachers who have been employed since January 1, 1897, or who shall hereafter be employed in any primary or grammar school in any city in this State authorized to employ a superintendent of schools must possess one of the three following qualifications:

*First.* — Such teacher must hold a diploma issued by one of the normal schools of this State or a life State certificate issued by the State Superintendent of Public Instruction.

*Second.* — Such teacher must have had at least three years' experience in teaching and must possess a certificate issued by the proper local authorities.

*Third.* — Such teacher must have graduated

from a high school or academy, or some other institution of equal or higher rank, having a course of study of at least three years, which is approved by the State Superintendent of Public Instruction. Such teacher must also have completed subsequent to such graduation a course of not less than thirty-eight weeks in a school or class for the professional training of teachers, and must hold a certificate issued by the proper local authorities. Such professional course must also be approved by the State Superintendent of Public Instruction.

**Suspension of Pupils.** — There is no provision of law defining definitely the right to suspend a pupil from attendance upon school. This subject has been a question for the judicial consideration of State superintendents and of the courts. The present compulsory education act has so modified this question as to change materially former rulings relating thereto. We shall not therefore discuss these former rulings, but shall consider the question in its present aspect.

The trustee or trustees of a district is the proper authority to suspend pupils. A teacher does not possess this authority. A teacher may, for proper reasons, dismiss a pupil for the day,

but not for a longer period. When a pupil is dismissed for a day, the teacher should at the close of school on such day report the facts in the case to the trustees. A board of trustees has the power to prescribe regulations for the government of the schools under their management, and such board may therefore prescribe regulations governing the suspension of pupils. If in such rules a board designates specific offenses for which a pupil may be suspended, and such rules also provide that for such offenses a teacher may suspend a pupil, the teacher has the power to enforce such rules and suspend the offender. State Superintendent Skinner holds that pupils between the ages of eight and sixteen years who are required to attend upon instruction cannot be suspended from a public school for a longer period than ten days, unless the trustees provide a place at which such pupil may receive instruction equivalent to that required under the compulsory education act.

Public opinion supports the theory that schools are established for the purpose of educating children, and that for grave causes only will school authorities be warranted in denying them the privilege of attendance thereon.

**Expulsion of Pupils.** — A board of trustees is

the proper authority to expel a pupil from attendance upon a public school. A teacher does not possess this authority. A pupil required to attend upon instruction under the compulsory attendance act cannot be expelled from a public school unless the school authorities provide a place where such pupil may attend upon such instruction.

A pupil having a contagious disease is not in a proper physical condition to be required to attend upon instruction, and may, during the continuance of such disease, be denied school privileges. To permit such pupil to continue in attendance upon school would expose other pupils to the dangers of such disease.

Incorrigible pupils and pupils whose moral senses are so depraved that their association with other pupils would contaminate such pupils may be expelled from public schools. If such pupils are between eight and sixteen years of age and are required to attend upon instruction under the compulsory attendance act, they should be proceeded against as disorderly persons.

**Corporal Punishment.**—There is no direct statute enactment regulating the right of a teacher to inflict corporal punishment. Section

223, however, of the Penal Code provides that it shall not be unlawful for any parent, guardian, master, teacher, or the authorized agent of a parent, in the exercise of a lawful authority, to restrain or correct his child, ward, apprentice, or scholar, provided the force or violence used is reasonable in manner and moderate in degree.

Under the general provisions of the Consolidated School Law, a board of trustees of a common school district, or a board of education of a union free school district, possesses the authority to prescribe rules and regulations for the government of a school. When a board of trustees or a board of education adopts a regulation providing that corporal punishment shall not be inflicted, a teacher has no legal authority to resort to that mode of punishment. If a board of trustees or a board of education should adopt a regulation of this kind, and a teacher, in violation thereof, should inflict corporal punishment upon a pupil, such teacher would be committing an assault and subject to the penalties provided by the Penal Code.

In the absence of a regulation of this kind having been adopted by a board of trustees, a teacher may, under the protection of section 223 of the

Penal Code, inflict corporal punishment, providing such punishment is reasonable and moderate in degree. In inflicting this mode of punishment, a teacher should give full consideration to the gravity of the offense, the general effect of such offense upon the school, the temperament and the other physical conditions of the pupil. Cases of school discipline are rare in which teachers should finally resort to this extreme if not barbarous mode of punishment.

#### FIRE DRILL

[SEE CHAPTER 201, LAWS OF 1901]

**Duty of Principal, etc.** — Each principal or other person in charge of a public or private school or other educational institution, having more than 100 pupils, is required to instruct and train such pupils by means of drills, so that in any sudden emergency these pupils may be able to leave the school building in the shortest possible time and without confusion or panic. These drills or dismissals must be held as often as at least once each month.

**Penalty.** — Any principal or other person failing to perform the duty required in above paragraph is guilty of a misdemeanor, punishable at the discretion of the court by a fine not exceeding \$50. Such fine must be paid to the pension fund of the local fire department where there is such a fund.

**Duty of Board of Education.** — The board of education of any city or district to which this act applies, or any other body having control of the schools to which this act applies, must have a copy of the act relating to fire drills printed in a manual or handbook prepared for the guidance of teachers.



## TEACHER'S CONTRACT

[SUBD. 10, SECTION 47, TITLE 7, CONSOLIDATED SCHOOL LAW]

I, ....., of ....., county of ....., a duly qualified teacher, hereby contract with the board of trustees of District No. ...., town of ....., county of ....., to teach the public school of said district for the term of .... consecutive weeks, commencing ....., I...., at a weekly compensation of ..... dollars and ..... cents, payable at the end of each thirty days during the term of such employment.

And the board of trustees of said district hereby contract to employ said teacher for said period at the said rate of compensation, payable at the times herein stated.

Said board of trustees reserve the right to provide for a vacation or vacations of not more than .... weeks in the aggregate during said term.

Dated ....., I....

....., *Teacher.*  
 ..... }  
 ..... } *Trustees.*  
 .....

This contract should be executed in duplicate and one copy thereof given to the teacher and one retained by the board.

**Control of School Papers, Athletics, etc.** — It is within the legal power of school authorities to control the management and publication of papers published by the pupils of a school as a school paper. Commissioner Draper held in September, 1904, in the Monticello case, that a publication standing for a school and appealing to the constituency of that school on that ground is not a private or personal affair but a public affair, and as such is subject to the school authority of the district which it represents. The commissioner also sustained the principal and the board of education in suspending a pupil in charge of a school paper who refused to be governed by the rules prescribed by the school authorities to govern the management of such paper. (See decision 5142 — Report for 1905.) School authorities undoubtedly possess the same supervision over school organizations of a literary character or over those for the purpose of promoting athletics.

## REVIEW QUESTIONS

What certificate must a teacher hold to be qualified to teach in a school commissioner district? In a city? How old must a person be before being eligible to receive a teacher's certificate? How are State certificates issued? What rights do they confer? Explain the difference between those issued previous to 1875 and those issued since that date? What are college graduates' certificates? What rights do they confer? Who are eligible to receive them? What are normal school diplomas? What rights do they confer? What are commissioners' uniform certificates? Name the certificates issued under the uniform system?

Who are eligible to receive first-grade certificates? For what period are they valid? For how long may they be renewed? Who may receive second-grade certificates? Explain their value. Explain the value of a third-grade certificate. How may a person entitled to receive a third-grade certificate legally contract to teach? Who are eligible to receive a training class certificate? Explain their value. Explain the value of drawing certificates. When may a drawing teacher teach drawing and do general teaching also? Explain the value of kindergarten certificates. Vocal music certificates. Elementary and academic certificates. When may a kindergarten teacher teach kindergarten and do general teaching also? A music teacher teach vocal music and do other teaching also? By whom may temporary licenses be issued? For how long?

Are commissioners required to issue certificates to candidates who have passed the required examination? What are valid reasons for refusing to do so? What remedy has the aggrieved party? What certificates of qualification may the State Superintendent indorse? What is the effect of such indorsement? What certificates are school commissioners required to indorse? When may a commissioner withhold his indorsement? What is the effect of such indorsement? What are the requirements in relation to the indorsement of third-grade certificates? What is the ruling of the State Superintendent in relation to the right of a teacher to contract who holds a certificate subject to indorsement? What is the remedy for a person holding such certificate when a commissioner refuses to indorse it? What moneys cannot be applied toward the payment of an unqualified teacher? If a trustee appropriates these moneys for the payment of an unqualified teacher, what is the penalty? Who are responsible to such teachers, when

employed, for their salaries? What is the penalty for wilfully employing an unqualified teacher?

What authorities may revoke a teacher's certificate? What certificates may the State Superintendent revoke? A school commissioner? Upon what grounds may the State Superintendent revoke a certificate? For what *one* cause may a commissioner revoke a certificate? What is the duty of a commissioner when charges against the moral character of a teacher have been presented to him? To what rights is a teacher thus charged entitled at a hearing? Why cannot a commissioner revoke a certificate for deficiency in scholarship or for inability to govern or manage a school? Who is the *only* authority to revoke a certificate upon these grounds? Explain fully each of two ways of disposing of an inefficient teacher.

Can a certificate be revoked for immoral conduct previous to the date of issuance of such certificate, and when such conduct was known to the official at the time he issued such certificate? What must be the character of charges preferred against a teacher? Can a teacher be placed on trial for general charges of immoral conduct? For what three causes does the consolidated school law provide teachers' certificates may be revoked? For what causes have State Superintendents held certificates may be revoked? What did Superintendent Draper hold in relation to revoking a teachers' certificate? What effect does the revocation of a teacher's certificate have upon an existing contract?

Who may contract to teach? May a minor contract? Is a minor required to complete a term for which contract has been made? Under what penalty? Is a minor subject to suit for damages for failing to complete a contract? May married women contract?

By whom are teachers employed? Can a district meeting direct what teachers shall be employed? When may the trustees of a common-school district employ a relative? Of a union free-school district? In either case may the same trustees or board employ such teachers the next ensuing year without second approval of district or board? What is the shortest period for which a trustee may employ a teacher? What is the limitation as to the period of time for which a teacher may contract? May a trustee employ a teacher for "as long as her work is satisfactory?" May the trustees of a common-school district contract for a period beyond the current school year? For what period

beyond? What remedy has a teacher employed contrary to the above provisions?

What contract should be given to each teacher? By whom should it be signed? What essential facts should such contract contain? Is a verbal contract binding? Must a contract be made at a meeting of a board? When is a contract made by one member of a board of two or more trustees binding? How often can teachers insist upon receiving their pay? Is a contract providing that the salary of a teacher shall not be paid until at the end of the term legal? If such contract is made, how often may a teacher insist upon being paid? May a legal contract be made providing a teacher shall be paid oftener than monthly?

Upon what officers may trustees issue orders in payment of teachers' salaries? Why these officers? May they issue orders for an amount greater than that held by such officers? What is the penalty for a violation of this provision of law? Under what conditions may teachers receive compensation for time during which school is closed? Give illustrations coming within these provisions. What is the teacher's remedy in cases of this kind when trustees refuse to pay for such time?

What is the law regulating the dismissal of teachers? What reasons have been held to be sufficient? What should a teacher do when dismissed by a board of trustees in order to be entitled to his compensation for the full period of his contract? What would be the legal effect if a teacher should acquiesce in such dismissal? When may a trustee dismiss a teacher without cause? In these cases in what two ways may a teacher seek relief? Which is preferable? What relief may be requested?

What record of attendance are teachers required to keep? How must such record be kept? Why is this an important record? Who is responsible for the safe keeping of the register? To whom should the register be delivered after a term of school is closed? What records must the teacher verify? Who may administer this oath? When must a teacher verify this record?

Who is the proper authority to prescribe rules for the government of a school? When such rules have been adopted, what is the duty of the teacher in relation thereto? May trustees enter a school room and direct the enforcement of such rules?

Does the law define the school hours? What are the

usual hours? May other hours be fixed? Who possesses the authority to fix these hours? If unreasonable hours are designated what is the relief? May a teacher close school for any period without the approval of the trustees? What is the effect upon contract of closing school without such consent? Is this consent necessary to close school on a legal holiday or for attending an institute?

Is a teacher required to do the janitor work? A pupil? When may a teacher be required to do this work? Why? Is a teacher entitled to compensation for voluntarily performing this work? In what two ways may a teacher bring an action in court to enforce payment of salary? Why are these methods objectionable? What other method may be pursued? Why is this preferable?

Is there a provision of law regulating the garb which shall be worn by teachers? When and in what case was this question passed upon by Superintendent Draper? What was his decision in the matter? When did Superintendent Skinner pass upon the question? In what case? What was his decision? What further action in this case did Superintendent Skinner take on May 15, 1897? Explain the law in relation to pensioning retired teachers.

When a teacher under contract is unable to teach by reason of illness what should she do? Who may select a substitute teacher, if one is desired, during the illness of a teacher? Has the regular teacher any voice in the employment of such substitute? Under what conditions, in a case of this kind, may a trustee declare a teacher's contract void? What remedy has a teacher for unfair treatment in such cases?

What is the general ruling in relation to the authority of a teacher over a pupil? Define the limits of a teacher's authority. What extreme views have courts taken on this question? Are these decisions safe guides for the present? What is the modern view of courts and of judicial departments upon this question? What has been the uniform rulings of the State Superintendents? Explain the ruling of Superintendent Draper in relation to the authority of a teacher over a pupil during the noon recess. The right of a teacher to detain pupils after the regular school hours. How is the authority of a teacher restricted in this matter? What legal effect has the regulations of a board of trustees upon the teacher's power?

To what schools do the provisions of chapter 1031 of the Laws of 1895 relate? To what cities? Does it relate in any

way to schools outside of cities? What schools? How does this law affect those who were employed at the time it went into operation? When did it go into operation? Name each of the three qualifications one of which must be possessed to be employed in a school under this law?

By what authority has the subject of suspension of pupils been considered? What has changed rulings on this subject? Who is the proper authority to suspend a pupil? May a teacher dismiss a pupil? For what period? What should a teacher do in such case? When may a teacher suspend a pupil? What is the ruling of Superintendent Skinner on suspending pupils between 8 and 16 years of age? What is public opinion on the theory of the establishment of schools?

Who possesses the authority to expel a pupil? How does the compulsory attendance act affect the expulsion of pupils? Why may a pupil having contagious disease be expelled? What other pupils may be expelled? How should they be proceeded against? Discuss the right of a teacher to inflict corporal punishment. What is the duty of principals in relation to fire drills? What is the penalty for violation of this law?

## CHAPTER XXVI

### STATE EDUCATION DEPARTMENT

**Historical Sketch.** — The Department of the State government which has supervision of all public education is now called the Education Department. Since 1812 there has been a Department or Departments of the State government under different names charged with this duty. The present Department was created by the Unification Act of 1904, and embraces all work formerly under the supervision of the Department of Public Instruction, and it also includes the University of the State of New York. In 1784 the legislature created the corporate body known as the "Regents of the University of the State of New York." In 1889 the legislature changed the name to "University of the State of New York," and section 2 of article 9 of the State Constitution of 1894 continues it under this name. Under the provisions of the Unification Act and an understanding reached between the Commissioner of Education and the Regents, the Education Department has been organized and its work classified as follows:

### BOARD OF REGENTS

**General Powers.** — The Board of Regents exercises all the powers of the University of the State of New York. It exercises legislative powers over all State educational policies. It approves all appoint-

ments made by the Commissioner of Education, and after April 1, 1910, it fills any vacancy that may exist in the office of Commissioner of Education. The board may also at any time, for cause, remove such Commissioner.

It gives direction to the work related to admissions to the learned professions, to the management of the State libraries and the scientific work of the State, and to other educational work sustained by the State outside of teaching institutions. The board may also establish rules and regulations necessary to carry into effect any of the statutes relating to the work under its supervision.

**Election.**—The Unification Act provided that a board of eleven regents should be chosen from the old board of nineteen elective regents. This board of eleven regents was, and all future regents must be, chosen by joint ballot of the Senate and Assembly and chosen so far as may be possible so that one regent should be a resident of each judicial district in the State. The election of a regent must take place during the second week of February in each year.

**Office of Regents Terminated.**—This act also provides that the term of office of the regents not chosen as provided above shall cease and determine April 1, 1904, and that there shall be no "ex-officio" members of the Board of Regents.

**Term of Office.**—The regents chosen under this act are to serve one, two, three, four, five, six, seven, eight, nine, ten, and eleven years respectively from April 1, 1904. The term of office of one regent will



therefore expire each year, and the regents chosen to fill such vacancies shall serve for eleven years.

**Vacancies — How Filled.** — If a vacancy on the Board of Regents occurs in a judicial district which should still have a representative on the Board of Regents and there shall be at the time of such vacancy a district not represented on such board, such vacancy must be filled by the election of a regent residing in such unrepresented district.

If a vacancy in the office of regent occurs for other cause than expiration of term of office, such vacancy shall be filled for the unexpired term by the Legislature if it is in session, and if it is not in session such vacancy shall be filled at the session of the Legislature immediately following.

**Commissioner of Education.** — The Commissioner of Education is the chief executive officer and the general advisory and supervisory officer of the entire State educational system. Chapter I of this work is devoted exclusively to his election, powers, duties, etc.

**Assistant Commissioners of Education.** — There are three assistant commissioners of education, known as the First Assistant, the Second Assistant, and the Third Assistant. These assistant commissioners are respectively in charge of higher education, secondary education and elementary education. Their rank and compensation are equal and they exercise the functions of the Commissioner of Education in their respective fields under his general direction. The work of these assistants does not relate to the management of the

Department but to the broad field outside of the Department.

**Secretary to the Commissioner of Education.** — The Secretary to the Commissioner of Education is the executive officer of the Department. He has general supervision of the internal workings of the Department subject to the orders of the Commissioner of Education. He has general charge of the mails, express matter, documents and printing, and he has direct supervision over the employees connected therewith, and such other employees of the Department as are not under the direction of some superior officer. He also keeps the records of the proceedings of the Board of Regents.

**Director of Division of Libraries.** — This division has charge of the State Library and the library school. The State Library was established in 1818. It was placed under the trusteeship of the various State officials. In 1844 it was placed under the custody of the Regents of the University, and in 1899 was made a part of the University).

**Director of Division of Science.** — The work of this division embraces investigations in natural science, the economic and industrial applications of such science, and the State Museum. It also embraces the work of the State geologist and paleontologist, the State botanist, State entomologist, mineralogist, zoologist and archeologist.

**Chiefs of Divisions.** — The Commissioner of Education classified the administrative and clerical

work of the Department into divisions and appointed a chief in charge of each division. Each chief appoints the subordinate employees of his division subject to the approval of the Commissioner of Education. Chiefs of divisions are directly responsible to the Commissioner of Education. There are nine of these divisions.

**Accounts Division.** — This division has charge of all financial matters pertaining to the Department. It looks after appropriations and sees that expenditures are made accordingly. It receives all fees, has charge of all expense accounts, and pays Department salaries. It is responsible for the expenses of normal schools, training classes, institutes, and Indian schools.

**Attendance Division.** — This division has the general supervision and enforcement of the compulsory education law.

**Educational Extension Division.** — This department includes all work heretofore done under the name of the department, which includes all agencies for the promotion of educational advantages for those unable to attend the usual teaching institutions. The means employed in the extension of this work embrace summer schools, vacation schools, evening schools, correspondence schools, lecture courses, study clubs, reading circles, etc. The supervision of the incorporated public libraries of the State is under the direction of this division. It also has charge of the traveling libraries.

**Examination Division.** — This division has charge

of all examinations conducted by the Education Department.

The propriety of holding regents' examinations was first suggested in 1828. It was not, however, until June, 1864, that regulations were prescribed for holding examinations in preliminary subjects. The first examination was held in June, 1865, and included the subjects of arithmetic, geography, grammar, reading, writing, and spelling. In 1878, examinations were established in 20 advanced academic subjects. The number of subjects has gradually increased until it is now more than 100.

(a) *Law Examinations.* — Examinations for admission to the bar are conducted by a State board of examiners under the direction of the Court of Appeals. The Department has nothing to do with these examinations. Law students, before entering upon the study of law or within one year thereafter, must offer certain preliminary educational qualifications prescribed by the Court of Appeals. The examinations by which these qualifications are determined are under the direction of the Department. It is also authorized to accept the completion of certain higher courses of study as a substitute for these examinations.

(b) *Medical Examinations.* — A certain amount of general education is required of all persons beginning the study of medicine. The University has supervision of the preliminary medical-student examinations, and is also the sole authority to issue licenses for the practice of medicine in the State. The examinations for candidates who desire to practice medicine are

under the direction of boards of medical examiners appointed by the regents from candidates nominated by the different State medical societies. The members of these boards are leading physicians from various parts of the State. Since 1890 the authority to indorse diplomas or licenses of physicians from other States or countries has been vested in the Department. Previous to this date such authority was possessed by each of the medical colleges of the State.

(c) *Other Professional Examinations.* — This division has charge also of the examinations for candidates who desire licenses to practice dentistry, pharmacy, and veterinary medicine in the State, and also to practice as a public expert accountant, or who desire to become registered nurses. All licenses of this kind are issued by the University.

(d) *Teacher's Examinations.* — This division also has charge of all teacher's examinations held in the State. These embrace training school, training class, examinations held by school commissioners, and for life State certificates.

(e) *Other Examinations.* — This division has charge of competitive examinations on which State scholarships in Cornell University are awarded and examinations for admission to training classes and State normal schools.

**Inspection Division.** — This division has charge of the inspection of all educational institutions in the State, including universities, colleges, technical and professional schools, normal schools, training classes, academic institutions and all public schools. Fifteen

inspectors are employed in this work. The prime object of inspection is to stimulate local interest in educational work and thus improve all school accommodations and to raise the standard of educational work.

**Law Division.** — This division interprets the school law and all other statutes related in any way to the educational work of the State. It has direct charge of all contested appeals and presents them in proper form to the Commissioner of Education for determination. It looks after the form and legality of charters issued by the Board of Regents and also the measures affecting educational interests which are introduced into the State legislature. It looks after the interests of the Department in any litigation in the courts when the Department is thus involved.

**Public School Libraries Division.** — This division has charge of all matters pertaining to public school libraries.

**Records Division.** — This division has charge of all Department records not in actual use and of all records affecting the educational history of the State. It preserves such publications and records as may be of service to students in the study of our State or national educational history.

**Statistics Division.** — This division looks after reports from all educational institutions in the State and all school districts. It tabulates such reports and prepares general statistics on our educational system. It looks after the apportionment of moneys to the public schools of the State and all other educational institutions entitled thereto.

**Visual Instruction Division.**— This division has charge of the work formerly done by the American Museum of Natural History in the preparation of slides, etc., for stereopticon lectures.

## UNIVERSITY

The chief powers of the University are to charter and inspect educational institutions, confer degrees, determine value of credentials and standard of institutions not in the University, and to supervise entrance requirements to the learned professions, etc.

**Chancellor and Vice-Chancellor.**— The chancellor is the presiding officer of the convocation and of all meetings of the regents. He confers degrees authorized by the regents, and fixes the time and place of all special meetings of the regents.

When the chancellor is unable to perform any or all of his duties, they are performed by the vice-chancellor.

**Charters Educational Institutions.**— The Board of Regents has authority to incorporate any university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history, or other department of knowledge under such terms as the law provides.

The regents may also, in their discretion, issue provisional charters, they may change the name of institutions which have been chartered, and they may, for valid reasons, suspend or revoke any charter which has been granted.

No institution of higher education can be incorporated by the regents until such institution has been inspected by some officer of the University and ap-

proved by the regents. The buildings, furniture, and equipments must meet the regents' requirements.

**Degree-Conferring Institutions.** — No individual, association, corporation, or institution can legally confer degrees in this State unless express provision granting this power is given by a charter granted either by the State Legislature or by the regents. No institution or association can transact business under, or assume in any way, the name of university or college without permission from the regents.

No institution can be authorized under the University law to confer degrees unless it has at least \$500,000 resources.

**Crimes Under University Law.** — Counterfeiting any credential issued under the seal of the University or making any unauthorized alteration in such credential is a felony.

Any one personating another by attempting to take an examination in his name, or procuring a person thus falsely to personate another, or attempting in any way to obtain a record of having passed a regents' examination in violation of the University regulations, is guilty of a misdemeanor. A person who aids or abets another in such violation is likewise guilty of the same crime. Any person who fraudulently issues a regents' credential, or who falsely represents himself as having received a degree or credential, or who appends without proper authorization to his name the letters representing any degree conferred by the University, is also guilty of a misdemeanor.



**University Credentials of High School Grade. —**

The credentials are the preliminary professional certificates, and the diplomas. The preliminary certificate is the prerequisite to the diplomas; eight years of preacademic preparation or its equivalent is the prerequisite to the preliminary profession and all equivalent certificates. The preliminary professional are the law student, medical student, dental student, veterinary student, pharmacy, and the business; the diplomas are the 48 count, the advanced (60, 72, 84, etc.) and the classical academic on the old plan and 60, 75, 90, etc., on the new plan.

Two series of credentials are issued by the University, (1) the academic, issued on regents' examinations only, and (2) the equivalent, issued for work completed in registered secondary schools supplemented, if necessary, by regents' examinations.

*Preliminary Certificates.* — A preliminary certificate is issued to any person obtaining a standing of at least seventy-five per cent. in writing, reading, spelling, elementary English, arithmetic, and geography. After July 1, 1907, elementary United States history and civics will be added.

**Count.** — The term "count" represents one year's work of one hour per week on one subject. A subject pursued five periods per week for one year represents five counts. The value of a count on the present basis has been increased 25 per cent. Twelve counts under the old plan are equal to 15 counts under the present.

**Academic Diploma.** — This diploma is based upon a four-year curriculum which requires a student to pursue four subjects of study at a time with at least

18 lessons a week. Hereafter 18 counts will be given for a year's work of 18 lessons a week, and as a diploma will represent four years' work it will also represent 72 counts. The present plan is not retroactive and the new plan cannot come into full operation within four years. During this period diplomas will be issued on values as follows: To June 1, 1906, 48 counts; from June 1, 1906 to June 1, 1907, 63 counts; from June 1, 1907 to June 1, 1908, 66 counts; from June 1, 1908 to June 1, 1909, 69 counts; and thereafter 72 counts.

A system of differentiated credentials has been adopted to go into effect in June, 1909, as follows:

- 1 A diploma based upon a general average of 65.
- 2 A diploma, *with credit*, based on a general average of 75.
- 3 A diploma, *with great credit*, based on a general average of 85.
- 4 A diploma, *with highest credit*, based on a general average of 95.

In computing general averages the rating of any answer paper not below 60 may be included.

The requirements for the academic diploma which is issued only to students taking the Department's preliminary and academic examinations, are as follows: English 13 counts, mathematics 10, history 10, science 10, elective 20. For the classical academic diploma: English 13 counts, mathematics 10, history 5, science 5, Latin 20, a second foreign language 15, elective 4. These new requirements go into effect June 1, 1909.

*Academic Diplomas.* — A candidate who has earned a preliminary certificate and in addition thereto forty-

eight counts; eight of such counts being in English and six counts each in mathematics, in science (physical, geologic, biologic), in history and social science, is entitled to receive an academic diploma.

*Medical-Student, Dental-Student, and Veterinary-Student Certificates.* — Candidates desiring these certificates must secure at least 48 counts on the old plan or 60 on the new plan. Candidates are permitted to select the subjects on which they desire to earn these counts.

*Law-Student Certificates.* — To receive a law-student certificate, candidates are required to pass in advanced English, English composition, first-year Latin, arithmetic, algebra, geometry, English history, United States history, civics, economics, or to obtain 36 counts on the old plan or 45 on the new plan.

*Literature Fund.* — The first act creating this fund was passed in 1786. This act provided that unappropriated lands of the State should be sold by the Commissioners of the Land Office, and the funds used for the promotion of literature in the State. The revenue derived from the sale of lands under several subsequent acts was added to this fund. Revenue derived from arrears of quit rents in 1819, from the sale of land belonging to the canal fund in 1827, and from the United States Deposit Fund in 1836, was also added to this fund.

The income derived from this fund is apportioned from the general fund for educational purposes.

*Misdemeanor.* — It is a misdemeanor for a firm, agent or other person engaged in selling, publishing or manufacturing books, charts, apparatus or any other school supplies to falsely represent to any school officer or teacher that he is an agent or representative of the Education Department or any school officer.

## REVIEW QUESTIONS

Give a brief statement of the supervision of the State over its public schools. When were the Regents of the University of the State of New York organized? What change was made in the organization in 1889? In 1894? What are the general powers of the board of regents? How was the present board organized? What is the term of office of a regent? How are vacancies filled? What are the general duties of the Commissioner of Education? The first assistant commissioner? The second assistant commissioner? The third assistant commissioner? The secretary to the commissioner? Director of division of libraries? Director of science divisions? How is the work of the Department classified and divided? Who appoints the chiefs of divisions? What appointments do the chiefs of divisions make? What are the principal duties of the chief of the accounts division? Attendance division? Examinations division?

When were regents examinations first suggested? When established? What examination of law students is under the supervision of the Department? Of medical students? By whom are licenses for the practice of medicine issued? Under whose direction are the examinations for candidates who desire to practice medicine? By whom is this board chosen? From whom? Since what date has the University issued licenses to practice medicine in the State? By whom were these licenses issued previous to that time? Name the other professional examinations under the supervision of the Department? What other examinations are under its supervision? What are the principal duties of the chief of the inspection division? Law division? Statistic division? Record division?

What are the chief powers of the University? What officers has it? What are their duties? What is the authority of the University in relation to institutions which have been chartered? What steps are necessary before an institution may be chartered? What institution may confer degrees? What prohibition is made by law in relation to institutions using the name college or university? Before an institution can be authorized under the University law to confer degrees what must its resources be? What act under the University law is a felony? What acts are misdemeanors?

Name the credentials issued by the University. What is a pass card? What is meant by the term *count*? What is a preliminary certificate? An academic diploma? What must candidates do to obtain a medical-student, dental-student, or veterinary-student certificate? A law-student certificate?

When was the literature fund created? How was it created? What revenue was added to this fund in 1819? In 1827? In 1836? What is done with the revenue derived from this fund?

## CHAPTER XXVII

### APPEALS TO THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

[TITLE 14]

**Who May Appeal.** — Any person considering himself aggrieved under the provisions of this title of the Consolidated School Law may bring an appeal to the State Superintendent of Public Instruction for judicial determination.

**Action Appealable.** — Any action of a school district meeting, of a trustee of any school district, of a supervisor in relation to school moneys, of a school commissioner or other officer relating to the boundaries of school districts, or an apportionment of school moneys, or the action of any of the foregoing concerning any other matter under the Consolidated School Law, or pertaining in any way to the common-school system, may be reviewed by the State Superintendent on appeal to him in due form.

**Judicial Authority.** — The State Superintendent is a judicial as well as an executive officer. The administration of the school system through local officers and the action of school

district meetings give rise to numerous questions which must be settled by some judicial authority. It is important that these numerous questions shall be settled at an early date and with the least expense possible. To meet this situation, the State legislature has conferred upon the State Superintendent of Public Instruction the power to hear and determine questions of this kind in the same manner that they are heard and determined by courts. Several hundred appeals are decided by the State Superintendent each year, and since vesting this power in the State Superintendent over 5,000 appeals have been decided by him.

**Powers of Superintendent.**— Under this title of the school law the State Superintendent is given power to regulate the practice under which appeals shall be brought under his jurisdiction. He may render a decision on the law and the facts submitted and make any order necessary to give force and effect to his decision.

**State Superintendent's Decision Not Reviewable.**— The decision of the State Superintendent of Public Instruction on an appeal brought before him by an aggrieved party from any decision made by a school district meeting, by any school district officer, by a supervisor in relation

to payment of school moneys, or an appeal brought before him by any other official act or decision pertaining to the school system of the State, is final and conclusive and cannot be reviewed by any court.

**Decision of the State Superintendent Reviewable.** — An original application to the State Superintendent to act in a case where no action has been taken before, is not in any sense an appeal to the State Superintendent from any decision of an officer or body. It is a direct application to the Superintendent to exercise a power which is original and not appellate. An application, therefore, to the State Superintendent to remove a trustee of a school district is not an appeal in the sense in which this term is used in the Consolidated School Law. The action of the State Superintendent in a case of this kind is reviewable by the courts. (159 N. Y. 162.)

**Rules of Practice.** — The State Superintendent of Public Instruction has prescribed the following rules to govern the practice of appeals:

1. An appeal must be in writing, addressed "To the Superintendent of Public Instruction," stating the grounds upon which it is taken, and signed by the appellant or appellants. The appeal must be verified by the oath of the appel-

lant or appellants. When the appeal is made by the trustees of a district, it must be signed by all the trustees, or a reason must be given for the omission of any, verified by the oath of the appellant, or of some person acquainted with such reason.

2. A copy of the appeal, and of all the statements, maps and papers intended to be presented in support of it, with the affidavit in verification of the same, must be served on the officer or officers whose act or decision is complained of, or some of them; or if it be from the decision or proceeding of a district meeting, upon the district clerk or one of the trustees, whose duty it is to cause information of such appeal to be given to the inhabitants who voted for the decision.

3. Such service must be made by delivering a copy of the appeal to the party to be served personally, or, in case he cannot be found in the commissioner district in which he resides, after due diligence, by delivering and leaving the same at his residence, with some person of suitable age and discretion, between six o'clock in the morning and nine o'clock in the evening.

4. Immediately after the service of such copy, the original, together with an affidavit proving



the service of a copy thereof and stating the time and manner of the service and the name and official character of the person upon whom such service was made, must be transmitted to the Department of Public Instruction at Albany.

5. Such original appeal and all papers, etc., annexed thereto, with proof of service of copies, as required by rules 3 and 4, must be sent to the Department of Public Instruction within thirty days after the making of the decision or the performance of the act complained of or within that time after the knowledge of the cause of complaint came to the appellant, or some satisfactory excuse must be rendered in the appeal for the delay. If an answer is received to an appeal which has not been transmitted to the Department, such appeal will be dismissed.

6. The party upon whom an appeal shall be served must, within ten days from the time of such service, unless further time be given by the State Superintendent, on application, answer the same, either by concurring in a statement of facts with the appellant or by a separate answer, and of all affidavits, papers, maps, etc., in support thereof. Such statement and answer must be signed by all the trustees or other officers whose act, omission or decision is appealed from,

or a good reason, on oath, must be given for the omission of the signature of any of them. Such answer must be verified by oath and a copy thereof and of all the statements, maps, papers, etc., intended to be presented in support thereof, served on the appellants or some one of them, in like manner as is provided in rule 3 for the service of a copy of an appeal.

7. Immediately after the service of a copy of such answer and the statements, papers, etc., presented in support thereof, the original answer and papers, etc., together with an affidavit of the service of such copy and stating the time and manner of the service and the name and official character of the person upon whom such service was made, as hereinbefore provided for the service of a copy of an appeal, must be transmitted to the Department of Public Instruction, at Albany.

8. No reply, replication or rejoinder shall be allowed, except by permission of the State Superintendent of Public Instruction; in which case such reply, replication and rejoinder must be duly verified by oath, and copies thereof served on the opposite party. Immediately after the service of such copy, the original, together with an affidavit of such service, and stating the time

and manner of the service and the name and official character of the person upon whom such service was made, must be transmitted to the Department of Public Instruction, at Albany.

9. So far as the parties concur in a statement, no oath will be required to it. But all facts, maps or papers, not agreed upon by them and evidenced by their signature on both sides, must be verified by oath.

10. When any proceeding of a district meeting is appealed from, and when the inhabitants of a district generally are interested in the matter of the appeal and in all cases where an inhabitant might be an appellant had the decision or proceeding been the opposite of that which was made or had, any one or more of such inhabitants may answer the appeal, with or without the trustees.

11. When the appeal has relation to the alteration or formation of a school district, it must be accompanied by a map, exhibiting the site of the school-house, the roads, the old and new lines of districts, the different lots, the particular location, and distance from the school-houses of the persons aggrieved, and their relative distance, if there are two or more school-houses in question; also, a list of all the taxable inhabit-

ants in the district or territory to be affected by the question, showing in separate columns the valuation of their property, taken from the last assessment-roll, and the number of children between five and twenty-one belonging to each person, distinguishing the districts to which they respectively belong.

12. An appeal, of itself, does not stay the proceedings. If the party desires such stay he should apply for it by petition, stating the facts why such stay should be made, duly verified. The Superintendent will grant a stay, or not, as in his judgment it may be proper, or may subserve the interests of either party or the public; and may direct a copy of the petition to be served on the opposite party, and a hearing of both sides before deciding upon the application.

13. The affidavit of verification, required by these rules to an appeal, answer, reply, replication and rejoinder, must be to the effect that the same is true to the knowledge of the affiant, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

14. All oaths required by these rules may be taken before any person authorized to take affidavits.

15. All appeals and other papers therein must be fairly and legibly written; and if not so written, may, in the discretion of the Superintendent, be returned to the parties.

16. When any party, appellant or respondent, is not represented on the appeal by any attorney, the name of such party, with the names of the district, town and county and his post-office address must be indorsed upon each paper of the party so represented, filed in the Department on such appeal; and when represented by an attorney, the name of such attorney, with name of the district, town and county affected and his post-office address, must be so indorsed upon each paper of the party so represented, filed in the Department on such appeal.

17. Submission of appeals may be made upon the papers filed therein, with or without oral argument, or the filing of briefs, as the Superintendent, upon application, may determine.

18. The decision of the Superintendent in every case will contain the order, or directions, necessary and proper for giving effect to his decisions.

19. A decision upon an appeal will be forwarded by the Superintendent to the clerk of the school district in which the appeal arose, or

the town clerk of the town, when the appeal relates to the alteration of a district in which the order appealed from is filed, whose duty it will be to file the same in his office as a public record.

The Appellate Division of the Third Department held in *Walrath vs. The Board of Education of the City of Troy*, in March, 1906, that a writ of certiorari could not be issued to review the action of the Board in dismissing Walrath as principal of the high school and that his remedy was an appeal to the Commissioner of Education.

## CHAPTER XXVIII.

CONTRACTS FOR EDUCATION OF CHILDREN — TRANSPORTATION OF CHILDREN — FREE TUITION IN HIGH SCHOOLS — SAVING BANKS — VACCINATION.

**Contracts Between Districts for Education of Children.**—Any school district, by a majority vote of the qualified voters present and voting, may direct the trustees of such district to contract with the trustees or boards of education consenting thereto of any district, village, or city for the education of its children. Such contract shall be for such period as agreed upon and shall not exceed one school year. This contract must be written. It should be certified by the trustees of each of the districts, or, if either of the districts has a board of education, by the secretary of such board, and filed with the Commissioner of Education. If such contract is approved by the Commissioner of Education the district whose children are educated under such contract shall be deemed to have employed a qualified teacher for the period of such contract.

Whenever the period of such contract, combined with the period of time school is actually taught in such districts by a qualified teacher, amounts to at least 160 days, such district shall

be entitled to receive a *district quota*. In no instance, however, can a school district receive a greater amount of public money than the total expense incurred in payment of tuition and transportation of pupils.

The attendance of the pupils educated under such contract shall be reported by the school authorities of the district, city, or village in which they attend school the same as though they were residents thereof.

(Chapter 265, Laws of 1902.)

The Legislature of 1904 amended this law by providing that a district could contract for the education of part of its children. The education department has ruled that such contract may be made when such children are so located in a district that they may attend the school in an adjoining district more conveniently than the school in their own district, when better facilities will be afforded by contracting with two or more districts; and when the parents of all the children of a particular grade or grades below the eighth grade will consent to the education of their children in another district.

When a district maintains a school and in addition thereto makes a contract for the education of at least twelve of its children, such district is entitled to its district quota, and also to a teacher's quota if the expense under such con-



tract, including transportation of pupils, equals or exceeds a teacher's quota. When the amount is less than a quota a like amount will be apportioned the district.

**Transportation of Pupils.** — When the voters of any school district meeting have authorized a contract with the school authorities of any city, village or other school district for the education therein of its children of school age, they may also authorize a tax to pay the expenses of conveying the children of such district to the schools of the city, village or school district with which such contract has been made. When such contract has been made the trustees of a district may use any portion of the district quota (but not a *teachers' quota*) to pay for the education of such children under the terms of such contract, and also for the expenses of the transportation of such children.

If any of the children of school age in a district live so remote from the schoolhouse therein that they are practically deprived of school advantages during any portion of the school year, the voters at a district meeting may provide for the transportation of such children from their homes to the schoolhouse of the district. The expense therefor may be met by a district tax, or it may be paid out of the *district quota* apportioned the district.

(Chapter 175, Laws of 1903.)

**Parents Not Entitled to Compensation for Conveying Pupils.** — To vote compensation to a parent from the public funds for taking his child to and from school was not intended under the contract law. Payment to a parent for conveying his children to school comes dangerously near being an improper consideration to influence his vote in favor of the contract system when it might be more desirable to maintain a home school. A school district should maintain a home school unless it clearly appears that the district is too weak financially and numerically to do so. Even then it should be clearly shown that the educational facilities of the district will be improved by contracting, and that it may be done without imposing undue hardships upon the children required to attend school under such contract. Beyond that the intent of the law in providing for transportation was that it should be regular and daily; that individual parents should not derive pecuniary advantage from it; and that nothing should be left to parental convenience or caprice. The general rule should be that one person of proper character, furnishing suitable accommodations, should be regularly employed, and the contract for transportation should be awarded, after opportunity for competition, to the most reliable party who will furnish the best transportation at the lowest cost to the district. (Com'r Draper, No. 5219, October 31, 1905.)

The Commissioner of Education will not approve a contract for the education of children when it is shown that the distance such children must travel to attend school is so great as to practically deprive them of school privileges, until transportation is provided for such children.

FREE TUITION FOR NON-RESIDENT PUPILS IN  
ACADEMIC DEPARTMENTS.

**Object.**—The object of this law which has caused so much discussion is to bring within the reach of every boy and girl in the State a complete academic education without charge for tuition.

**Appropriation.**—The State Legislature appropriated \$100,000 for this purpose.

**Approved Schools.**—No school can receive tuition from the State for the attendance of pupils under this act unless such school is approved by the State Education Department. To be approved a school must maintain a satisfactory course of study, sufficient teaching force, adequate equipment, and suitable school building facilities.

**Schools Entitled to Compensation.**—To entitle a school to receive compensation for the instruction of non-resident pupils, such pupils must have been in regular attendance in the

academic department thereof for a period of not less than eight weeks, and they must reside in districts of the State not maintaining an academic department with an approved course of study of at least three years.

**Pupils Who May Be Admitted.**—All pupils residing within the State and in districts not maintaining an academic department having at least a three years' course of study may be admitted into any of the approved schools free of tuition by presenting to the local authorities a ninth grade certificate issued by the Department of Public Instruction, or a Regents' preliminary certificate. Students possessing equivalent qualifications covering elementary work will be admitted after their credentials have been approved by the State Education Department. The holders of uniform teachers' certificates meet the requirements. Pupils are not required to attend the school nearest their residence, but may attend any approved school where the school authorities admit them under this act.

**Schools Cannot Charge Pupils.**—A school receiving non-resident pupils at State expense must accept what the State offers in full payment for tuition. A school is not required to furnish non-resident students with free textbooks or any other accommodation not fairly included under the term tuition.

**Schools Need Not Accept State Pupils.** — No school in the State is required under this law to accept non-resident pupils under this act, and schools which do not may accept non-resident pupils under such conditions and charges for tuition as may be agreed upon between the school authorities of such school and such non-resident pupils.

**Tuition Not Chargeable for Certain Students.** — An approved school receiving non-resident pupils under this act will not be entitled to tuition for members of teachers' training schools or training classes. Nor will such schools be entitled to tuition for pupils in the academic department from districts contracting with such approved school for the education of their children. The State will not pay the tuition of non-resident pupils in attendance on any department or grade below the academic department.

**Separate Record of Attendance.** — The free school fund remaining after the payment of teachers' quotas is distributed on the basis of the aggregate daily attendance of resident pupils. The schools, therefore, receiving non-resident pupils under this act must keep a record of their attendance in that portion of the register for non-resident pupils.

**Compensation.** — An approved school receiving non-resident pupils under this act is entitled to \$20 per year tuition for a school year of at least thirty-two weeks, or a proportionate amount for a shorter period of attendance of not less than eight weeks.

## SCHOOL SAVINGS BANK.

**General Statement.** — The Legislature of 1904 amended the banking law by authorizing school savings banks in the public schools of the State. This action was necessary in view of an opinion of the State Attorney-General, in order to legalize a growing practice in many schools intended to inculcate principles of thrift and economy at an early period of the child's life.

**Who May Collect Money.** — The principal of any public school in the State or a superintendent of schools, or any other person designated for that purpose by a board of education, may collect from pupils once a week or from time to time small amounts of savings.

**How Deposited.** — Such savings shall be deposited on the day collected by the person making such collection in a savings bank of the State. Such deposits must be to the credit of the respective pupils from whom it was collected. If the amount collected at any one time shall be insufficient for the opening of individual accounts, it shall be deposited in the name of the principal or superintendent in trust and to be transferred to the credit of the respective pupils to whom it belongs when the amount is sufficient for that purpose.

**Data to be Furnished Bank.** — Principals or superintendents must furnish banks in which such deposits are made a list of the names of such depositors, their ages, signatures, addresses, place of birth, parents' names, and any other data required by such banks.

**Penalty for Violation of this Law.** — For the purposes of this law it is lawful to use the terms "School Savings Banks," or "System of School

Savings Banks" in circulars and otherwise, but for a violation thereof a penalty of \$100 is imposed for each offense and for each day such offense is continued.

## VACCINATION.

(See chapter 661, Laws of 1893 or chapter 25 of the General Laws known as the Public Health Law.)

The Court of Appeals, in a decision recently rendered declared that part of the public health law relating to the vaccination of children constitutional. This law applies to cities as well as school districts.

The Supreme Court of the United States also held that the Massachusetts law, which is similar to the New York law, was not an infraction of the United States Constitution. Opinion by Justice Harlan, February 20, 1905.

### **Pupils Not Vaccinated Can Not Attend School.**

— No child or person who has not been vaccinated shall be admitted or received into any public school of the State. Trustees are required to enforce this provision of the law.

**Notice by Trustees.** — When this law is not complied with, trustees must give ten days' notice of their intention to enforce it and must provide for free vaccination of the poor. Such notice must be posted in two conspicuous places of the district or city and must state the provision which has been made for the vaccination of children whose parents or guardians are unable to procure vaccination for them.

**Appointment of Physician.** — Boards of trustees are authorized to appoint a competent physician and fix his compensation for vaccination of children under this provision of law.

**Duty of Physician.** — It is the duty of such physician to ascertain the number of children of school age who have not been vaccinated, and prepare a list of their names and file such list with the board of trustees. Such physician shall

also vaccinate such persons as the board of trustees shall direct, and shall issue to them certificates of vaccination.

**Expenses, How Paid.** — The expenses incurred under this law are chargeable to the district or city as an expense for maintaining school and shall be levied and collected in the same manner as other school expenses.

**Report of Trustees.** — Trustees of school districts are required in their annual report to include the number of vaccinated and the number of unvaccinated children of school age.

#### REVIEW QUESTIONS

How may a district determine to contract for the education of its children? With whom may it contract? For what period? Where must contract be filed? What approval is necessary? What effect does such contract have upon the right of the district to State funds? When will a district be entitled to a district quota? What is the maximum amount a district may receive? How is the attendance of pupils recorded? When may a district contract for part of its children? What amount will then be apportioned a district?

How may transportation of pupils be authorized? Who makes such contract? From what funds may the expense of such contract be paid? When may a district not under contract provide for the transportation of its pupils? When will the Commissioner of Education refuse to approve contracts?

What was the object of the non-resident free tuition law? What schools will be approved? What schools are entitled to compensation? What pupils may be admitted under this law? May additional tuition be charged pupils? Are schools compelled to admit pupils under this law? For what pupils are schools prohibited from charging tuition? What record of attendance is required? What tuition is paid by the state?

What is the object of the school savings bank law? Who may collect money? How must such money be deposited? What data must be furnished banks? What penalty is prescribed for violation of this law?

Who is required to enforce the vaccination law? What notice must trustees give? What power has the board in relation to appointment of physician? What are the duties of such physician? How are the expenses of enforcement of this law paid? What report to trustees must be made?



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